



# भारत का राजपत्र The Gazette of India

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No. 17] NEW DELHI, APRIL 17—APRIL 23, 2016, SATURDAY/CHAITRA 28—VAISAKHA 3, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 8 अप्रैल, 2016

**का.आ. 659.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, मस्कत में श्री दीपक खत्री, सहायक अनुभाग अधिकारी को दिनांक 8 अप्रैल, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 8th April, 2016

**S.O. 659.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Deepak Khatri, ASO as Assistant Consular Officer in Embassy of India, Muscat to perform the Consular services with effect from 8 April, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

**वित्त मंत्रालय**

( वित्तीय सेवाएं विभाग )

नई दिल्ली, 11 मार्च, 2016

**का.आ. 660.**—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की अनुशंसा पर एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उप-खण्ड (i) के उपबंध आन्ध्रा बैंक पर लागू नहीं होंगे, जहां तक इसका संबंध बैंक के प्रबंध निदेशक एवं मुख्य कार्यपालक अधिकारी श्री सुरेश एन. पटेल को मैसर्स इंडिया फर्स्ट लाइफ इश्योरेंस कंपनी लि. के बोर्ड में नामित करने से है।

[ फा. सं. 13/27/2013-बीओ-I ]

सौम्याजीत घोष, अवर सचिव

**MINISTRY OF FINANCE****(Department of Financial Services)**

New Delhi, the 11th March, 2016

**S.O. 660.**—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clauses (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Andhra Bank in so far as it relates to the nomination of Shri Suresh N. Patel, Managing Director & Chief Executive Officer of the Bank on the Board of M/s. India First Life Insurance Co. Ltd.

[F.No. 13/27/2013-BO-I]

SOUAMYAJIT GHOSH, Under Secy.

नई दिल्ली, 28 मार्च, 2016

**का.आ. 661.**—भारतीय स्टेट बैंक (समनुषंगी बैंक) अधिनियम, 1959 की धारा 25 की उप-धारा (1) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अंशुमन शर्मा, उप सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को तत्काल प्रभाव से और अगले आदेशों तक, स्टेट बैंक ऑफ़ त्रावणकोर के निदेशक मंडल में सरकारी नामित निदेशक नामित करती है।

[ फा. सं. 6/3/2012-बीओ-I ]

ज्ञानोतोष रॉय, अवर सचिव

New Delhi, the 28th March, 2016

**S.O. 661.**—In exercise of the powers conferred by clause (e) of Sub-section (1) of Section 25 of The State Bank of India (Subsidiary Banks) Act, 1959, the Central Government, hereby nominates, Shri Anshuman Sharma, Deputy Secretary, Department of Financial Services,

Ministry of Finance, as Government Nominee Director on the Board of Directors of State Bank of Travancore with immediate effect and until further orders.

[F.No. 6/3/2012-BO-I]

JNANATOSH ROY, Under Secy.

नई दिल्ली, 18 अप्रैल, 2016

**का.आ. 662.**—नियुक्ति संबंधी मंत्रिमंडलीय समिति के अनुमोदन के अनुसार, केन्द्रीय सरकार, एतद्वारा, भारी उद्योग विभाग में सचिव श्री गिरीश शंकर को अतिरिक्त पदभार ग्रहण करने की तारीख से औद्योगिक एवं वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण (एएआईएफआर) के समापन तक अथवा अगले आदेशों तक, जो भी पहले हो, एएआईएफआर के सदस्य के पद का अतिरिक्त कार्यभार सौंपती है।

[ फा. सं. 20(02)/2002-आईएफ-II (खंड-III) ]

अतीश सिंह, निदेशक (आईएफ-II)

New Delhi, the 18th April, 2016

**S.O. 662.**—In accordance with ACC approval, the Central Government hereby entrusts additional charge of the post of Member, Appellate Authority for Industrial and Financial Reconstruction (AAIFR) to Shri Girish Shankar, Secretary, Department of Heavy Industry w.e.f. the date of his taking over the additional charge of the post and till the abolition of AAIFR, or until further orders, whichever is earlier.

[F.No. 20(02)/2002-IF-II (Vol. III)]

ATEESH SINGH, Director (IF-II)

नई दिल्ली, 18 अप्रैल, 2016

**का.आ. 663.**—नियुक्ति संबंधी मंत्रिमंडलीय समिति के अनुमोदन के अनुसार, केन्द्रीय सरकार, एतद्वारा, वित्तीय सेवाएं विभाग में आर्थिक सलाहकार डॉ. शशांक सक्सेना को अतिरिक्त पदभार ग्रहण करने की तारीख से औद्योगिक एवं वित्तीय पुनर्निर्माण बोर्ड (बीआईएफआर) के समापन तक अथवा अगले आदेशों तक, जो भी पहले हो, बीआईएफआर के सदस्य के पद का अतिरिक्त कार्यभार सौंपती है।

[ फा. सं. 20(02)/2011-आईएफ-II (खंड-II) ]

अतीश सिंह, निदेशक (आईएफ-II)

New Delhi, the 18th April, 2016

**S.O. 663.**—In accordance with ACC approval, the Central Government hereby entrusts additional charge of the post of Member, Board for Industrial and Financial Reconstruction (BIFR) to Dr. Shashank Saksena, Economic Adviser, Department of Financial Services, w.e.f. the date of his taking over the additional charge of the post and till

the abolition of BIFR, or until further orders, whichever is earlier.

[F. No. 20(02)/2011-IF-II (Vol. II)]

ATEESH SINGH, Director (IF-II)

नई दिल्ली, 21 अप्रैल, 2016

**का.आ. 664.**—श्री आशीष कालिया, पीठासीन अधिकारी, ऋण वसूली अधिकरण (डीआरटी), दिल्ली को औद्योगिक एवं वित्तीय पुनर्निर्माण बोर्ड (बीआईएफआर) के सदस्य का अतिरिक्त कार्यभार सौंपे जाने के संबंध में 01 मार्च, 2016 की अधिसूचना फा. सं. 20(02)/2011-आईएफ-II (खंड-I) के अनुसरण में, सरकार, एतद्वारा, श्री आशीष कालिया को पीठासीन अधिकारी के रूप में उनके कार्यकाल के सह-समापन तक बीआईएफआर के समापन तक अथवा अगले आदेशों तक, जो भी पहले हो, बीआईएफआर के अध्यक्ष के रूप में कार्य करने के लिए बीआईएफआर के सदस्य का अतिरिक्त कार्यभार धारण करने हेतु प्राधिकृत करती है।

[फा. सं. 20(02)/2011-आईएफ-II (खंड-II)]

अतीश सिंह, निदेशक (आईएफ-II)

New Delhi, the 21st April, 2016

**S.O. 664.**—In continuation of the notification F. No. 20(02)/2011-IF-II(Vol.I) dated 1<sup>st</sup> March, 2016 regarding assigning additional charge of the post of Member, Board for Industrial and Financial Reconstruction (BIFR) to Shri Ashish Kalia, Presiding Officer, Debts Recovery Tribunal (DRT), Delhi, the Government hereby authorises Shri Ashish Kalia holding additional charge of Member, BIFR to act as Chairman, BIFR co-terminus with his tenure as Presiding Officer, or till the abolition of BIFR, or until further orders, whichever is the earliest.

[F. No. 20(02)/2011-IF-II (Vol. II)]

ATEESH SINGH, Director (IF-II)

(राजस्व विभाग)

(हिंदी अनुभाग-2)

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 665.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, केंद्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

1. सीमा शुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर, आगरा का आयुक्तालय मुख्यालय;
2. केंद्रीय उत्पाद शुल्क एवं सेवाकर मंडल, फिरोजाबाद;

3. केंद्रीय उत्पाद शुल्क मंडल, आगरा;

4. सेवाकर मंडल, आगरा;

5. आई.सी.डी., आगरा।

[फा. सं. ई-11017/1/2015-ए.डी. (हिंदी-2)]

मीमांसक, संयुक्त निदेशक (राजभाषा)

(Department of Revenue)

(HINDI SECTION-2)

New Delhi, the 7th April, 2016

**S.O. 665.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies the following Offices under CBEC, where more than 80% staff have acquired the working knowledge of Hindi :

1. Customs, Central Excise and Service Tax Agra (Commissionerate Head Quarters);
2. Central Excise and Service Tax Division, Ferozabad;
3. Central Excise Division, Agra;
4. Service Tax Division, Agra;
5. ICD, Agra;

[F. No. E-11017/1/2015-AD (Hindi-2)]

MIMANSK, Jt. Director (OL)

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 666.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, केंद्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

1. कार्यालय आयुक्त, केंद्रीय उत्पाद शुल्क एवं सेवाकर, अलवर;
2. केंद्रीय उत्पाद शुल्क संभाग, अलवर;
3. सेवाकर संभाग, अलवर;
4. केंद्रीय उत्पाद शुल्क एवं सेवाकर संभाग, भिवाड़ी-प्रथम;
5. केंद्रीय उत्पाद शुल्क एवं सेवाकर संभाग, भिवाड़ी-द्वितीय;
6. केंद्रीय उत्पाद शुल्क संभाग, बहरोड़।

[फा. सं. ई-11017/1/2015-ए.डी. (हिंदी-2)]

मीमांसक, संयुक्त निदेशक (राजभाषा)

New Delhi, the 7th April, 2016

**S.O. 666.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies the following Offices under CBEC, where more than 80% staff have acquired the working knowledge of Hindi :

1. Commissionerate, Central Excise and Service Tax, Alwar;
2. Central Excise Division, Alwar;
3. Service Tax Division, Alwar;
4. Central Excise and Service Tax Division, Bhiwadi-First;
5. Central Excise and Service Tax Division, Bhiwadi-Second;
6. Central Excise Division, Bahrar.

[F. No. E-11017/1/2015-AD (Hindi-2)]

MIMANSK, Jt. Director (OL)

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 667.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, केंद्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

1. आयुक्त कार्यालय, केंद्रीय उत्पाद शुल्क एवं सेवाकर मुख्यालय, रांची-I;
2. केंद्रीय उत्पाद शुल्क एवं सेवाकर प्रमंडल, रांची;
3. केंद्रीय उत्पाद शुल्क एवं सेवाकर प्रमंडल, हजारीबाग;
4. केंद्रीय उत्पाद शुल्क प्रमंडल, रामगढ़;
5. सेवाकर-I प्रमंडल, रांची;
6. सेवाकर-II प्रमंडल, रांची।

[फा. सं. ई-11017/1/2015-ए.डी. (हिंदी-2)]

मीमांसक, संयुक्त निदेशक (राजभाषा)

New Delhi, the 7th April, 2016

**S.O. 667.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies the following Offices under CBEC, where more than 80% staff have acquired the working knowledge of Hindi :

1. Office of the Commissioner, Central Excise and Service Tax (HQ), Ranchi-I;
2. Central Excise and Service Tax Division, Ranchi;

3. Central Excise and Service Tax Division, Hazaribagh;
4. Central Excise Division, Ramgarh;
5. Service Tax-I Division, Ranchi;
6. Service Tax-II Division, Ranchi.

[F. No. E-11017/1/2015-AD (Hindi-2)]

MIMANSK, Jt. Director (OL)

नई दिल्ली, 8 अप्रैल, 2016

**का.आ. 668.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, केंद्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड के अधीन नोएडा, सीमा शुल्क आयुक्तालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/1/2015-ए.डी. (हिंदी-2)]

मीमांसक, संयुक्त निदेशक (राजभाषा)

New Delhi, the 8th April, 2016

**S.O. 668.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies Customs Commissionerate, Noida under CBEC, where more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11017/1/2015-AD (Hindi-2)]

MIMANSK, Jt. Director (OL)

### कार्मिक, लोक शिकायत और पेंशन मंत्रालय

( कार्मिक एवं प्रशिक्षण विभाग )

नई दिल्ली, 18 अप्रैल, 2016

**का.आ. 669.**—केन्द्र सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार, कार्मिक एवं पेंशन मंत्रालय, लोक शिकायत और पेंशन, कार्मिक और प्रशिक्षण विभाग, नई दिल्ली की अधिसूचना सं. 228/62/2015-एवीडी-II दिनांक 23.12.2015 को अधिक्रमण करते हुए, केंद्र सरकार, हरियाणा राज्य सरकार, सतर्कता विभाग चंडीगढ़ की अधिसूचना सं. 58/30/15-1-VII दिनांक 30.03.2016, द्वारा प्राप्त सहमति से पुलिस थाना-राज्य सतर्कता ब्यूरो, पंचकुला, जिला पंचकुला, हरियाणा में भां.दं. संहिता की धारा 201, 204, 409, 420, 467, 468, 471, 120-बी, 1860 (1860 की धारा क्र. 45) तथा भ्रष्टाचार निवारण अधिनियम, 1988 के अनुच्छेद 13 के अधीन दिनांक 19.12.2015 का पंजीकृत एफआईआर सं. 09 में

अन्वेषण करने तथा उससे संबद्ध अपराधों में किए गए दुष्प्रेरणाओं और षडयंत्रों तथा उसी संव्यवहार में किए गए उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों की अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त हरियाणा राज्य में करती है।

[फा. सं. 228/62/2015-एवीडी-II]

मो. नदीम, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSIONS**

**(Department of Personnel and Training)**

New Delhi, the 18th April, 2016

**S.O. 669.**—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), and in supersession of the Government of India, Ministry of Personnel, Public grievances and Pensions, Department of Personnel and training, New Delhi Notification No. 228/62/2015-AVD.II dated 23.12.2015, the Central Government with the consent of the State Government of Haryana, Vigilance Department, Chandigarh vide Notification No.58/30/15-1 VII dated 30.03.2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the state of Haryana for investigation of FIR No.09 dated 19.12.2015 under sections 201, 204, 409, 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) and section 13 of the Prevention of Corruption Act, 1988 (Act No.49 of 1988) registered at Police Station State Vigilance Bureau Panchkula, District Panchkula Haryana and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[F.No. 228/62/2015-AVD-II]

Md. NADEEM, Under Secy.

**रेल मंत्रालय**

(रेलवे बोर्ड)

नई दिल्ली, 8 अप्रैल, 2016

**का.आ. 670.**—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उप-नियम (2) और (4) के अनुसरण में, महाप्रबंधक कार्यालय, रेल पहिया कारखाना, बंगलूरू, जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

[सं. हिंदी 2015/रा.भा.-1/12/2]

के. पी. सत्यानंदन, निदेशक (राजभाषा)

**MINISTRY OF RAILWAYS**

(RAILWAY BOARD)

New Delhi, the 8th April, 2016

**S.O. 670.**—Ministry of Railways (Railway Board) in pursuance of sub-rules (2) and (4) of Rule 10 of the Official Languages Rules, 1976 (Use for the Official Purposes of the Union), hereby, notifies the General Manager's Office, Rail Wheel Factory, Bangalore, where 80% or more Officers/ Employees have acquired the working knowledge of Hindi.

[No. Hindi-2015/O.L.-1/12/2]

K. P. SATHYANANDAN, Director (OL)

**विद्युत मंत्रालय**

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 671.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रीड कारपोरेशन ऑफ इंडिया लिमिटेड के पश्चिमी क्षेत्र पारेषण प्रणाली-, के अधीन "400/220 केवी पिराना उपकेंद्र, सरदार पटेल रिंग रोड कमोद और असलाली सर्कल के बीच, अहमदाबाद-382427 (गुजरात) जिसके 80 प्रतिशत से कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[सं. 11017/10/2013-हिंदी]

डॉ. आर. सी. शर्मा, संयुक्त निदेशक (रा.भा.)

**MINISTRY OF POWER**

New Delhi, the 7th April, 2016

**S.O. 671.**—In pursuance of sub-rules (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976, the Central Government, hereby notify "400/220 Kv Pirana Substation, Sardar Patel Ring Road, Between Kamod and Asalali Circle, Ahmedabad-382427 (Gujarat)" under the Western Region Transmission System-II, of the Power Grid Corporation of India Ltd. under the administration control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[No. 11017/10/2013-Hindi]

Dr. R. C. SHARMA, Jt. Director (OL)

**भारी उद्योग और लोक उद्यम मंत्रालय**

( भारी उद्योग विभाग )

नई दिल्ली, 12 अप्रैल, 2016

**का.आ. 672.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987, 2007



और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में, भारी उद्योग और लोक उद्यम मंत्रालय, भारी उद्योग विभाग के प्रशासनिक नियंत्रणाधीन लोक उद्यम, बीएचईएल की निम्नलिखित इकाई, जिसके 80 प्रतिशत से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :

“इलेक्ट्रिकल मशीन्स रिपेयर प्लांट (ईएमआरपी), बीएचईएल”,  
मुंबई-400093

[सं. ई-11012/2/2013-हिंदी]

विश्वजीत सहाय, संयुक्त सचिव

## MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

New Delhi, the 12th April, 2016

**S.O. 672.**—In pursuance of sub-rules (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the Union) Rules, 1976 (as amended in 1987, 2007 and 2011), the Central Government, hereby notifies the following unit of BHEL, a CPSE under the administrative control of the Ministry of Heavy Industry and Public Enterprises, Department of Heavy Industry, wherein more than 80% staff have acquired working knowledge of Hindi :

“Electrical Machines Repair Plant (EMRP), BHEL”,  
Mumbai-400093

[No. E-11012/2/2013-Hindi]

VISHVAJIT SAHAY, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

शुद्धिपत्र

नई दिल्ली, 2 मार्च, 2016

**का.आ. 673.**—इस मंत्रालय की पूर्व समसंख्यक अधिसूचना दिनांक 28.09.2015 के क्रम में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में (संदर्भ सं. 47/आईटीसी/2005) दिनांक 03.02.2016 के अन्तर्गत केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल द्वारा संशोधित पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2016 को प्राप्त हुआ था।

[सं. एल-22012/259/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

**पाद टिप्पणी :** मूल अधिसूचना भारत के राजपत्र में, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, दिनांक 03.10.2015 के का.आ. 1903 द्वारा प्रकाशित हुई थी।

## MINISTRY OF LABOUR AND EMPLOYMENT

### CORRIGENDUM

New Delhi, the 2nd March, 2016

**S.O. 673.**—In continuation of this Ministry's earlier Notification of even number dated 28.09.2015, the Central Government hereby publishes the Rectified Award Ref. 47/ITC/2005 dated 03.02.2016 of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Satgram Incline of M/s. ECL. and their workmen, received by the Central Government on 16.02.2016.

[No. L-22012/259/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

**Foot Note :** The principal Notification, in pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), was published in the Gazette of India vide Notification No. S.O. 1903 dated 03.10.2015.

### ANNEXURE

#### OFFICE OF THE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Date 03.02.2016

Ref. No. 47/ITC/(2005)

**Ref :** Ministry's order No. L-22012/259/2004-IR (CM-II) dated : 05.07.2005. This office Ref. No. 47/2005 dated : 31.08.2015 (fully rectified copy of award (with highlighted rectifications) is enclosed herewith).

### SCHEDULE

“Whether the action of the management of Satgram Incline of M/s. ECL in dismissing Sri A. K. Singh from services *vide* order dated 08.03.2001 is legal and justified? If not, to what relief

### CORRIGENDUM

#### Page No.- 3

1. In Line No. 19 of 1st Para, “SAT/GM/PER/E/2000/1091© dated 8.2.2001” may be read as “SAT/GM/PER/C/2001/1091(C) dated 08.03.2001.”
2. In Line No. 28 of 1st Para, “personnel I are” may be read as “personnel are”.
3. In Line No. 3 of 2nd Para, “MS Colliery” may be read as “NS Coal Depot”.
4. In Line No. 4 of 2nd Para, “06.02.1999” may be read as “06.11.1999.”

5. In Line No. 5 of 2nd Para, “at MS coal Depot at Vigilance Team of ECL” may be read as “at NS Coal Depot a Vigilance team of ECL”.

**Page No.-4**

5. In Line No. 2 of 2nd Para, “under section 10(a)(d)” may be read as “under section 10 (1) sub clause (d)”.
6. In Line No. 3 of 2nd Para, “06.09.2001” may be read as “06.09.2000”.
7. In Line No. 4 of 2nd Para, “04.09.2001” may be read as “04.09.2000”.
8. In Line No. 6 of 2nd Para, “06.09.2001” may be read as “06.09.2000”.
9. Complete 3rd Para i.e. “The workman has filed several documentary evidences ..... and 08.03.2001” may be read as :

The workman has filed several documentary evidences as given below :

(1) Xerox Copy of the Transfer order dated 22.09.1998, (2) Xerox copy of the charge sheet dated 08/09.01.1999, (3) Xerox copy of the letter dated 15.01.1999 marked W-III, (4) Xerox copy of the statement of workman Arun Kumar Singh given to G.M., Vigilance, (5) Xerox copy of the replay of the charge sheet given by the workman dated 25.01.199, (6) Xerox copy of the charge sheet dated 14.01.1999, (7) Xerox copy of the replay to the charge sheet dated 18.01.1999, (8) Xerox copy of the notice of enquiry dated 25.02.1999, (9) Xerox copy of the order of reinstating the workman dated 05.03.1999, (10) Xerox copy of the workman's application dated 16.04.1999, (11) Xerox copy of the application dated 10.06.2000, 21.07.2000, 04.09.2000, 14.01.1999 and 01.03.2000, (12) Xerox copy of the application dated 18.05.1999, (13) Xerox copy of letter dated 25.08.2000, (14) Xerox copy of the certificate of attendance 25.03.2000, (15) Xerox copy of injunction order of the civil judge, (16) Xerox copy of the report of Enquiry officer and enquiry proceeding, (17) Xerox copy of the vigilance report, (18) Xerox copy of certified copy of statement given before the civil judge in T.S No. 49/99, (19) Xerox copy of attendance in for E given to the workman by ALC, Asansol, (20) Xerox copy of second show cause notice, (21) Xerox copy of the reply dated 07.03.2001, (22) Xerox copy of the order of dismissal against the workman.

**Page No.-5**

10. In Line No. 6 of 4th Para, “06.09.2001” may be read as “06.09.2000”.
11. In Line No. 6 of 4th Para, “04.09.2001” may be read as “04.09.2000”.
13. In Line No. 3 of 5th Para, “06.01.1999” may be read as “07.01.1999”.

**Page No.-7**

14. In Line No. 11 of 4th Para, “06.09.2001” may be read as “06.09.2000”.
15. In Line No. 12 of 4th Para, “04.09.2001” may be read as “04.09.2000”.
16. In Line No. 11 of 4th Para, “06.09.2001” may be read as “06.09.2000”.

**Page No.-8**

17. In Line No. 02 of 1st Para, “29.09.2001” may be read as “29.09.2000”.
18. In Line No. 03 of 1st Para, “06.09.2001” may be read as “06.09.2000”.
19. In Line No. 05 of 1st Para, “GM/JNR/c/816 dated 01.03.2001” may be read as “SAT/GM/PER/C/2001/816/1063(C) dated 01.03.2001”.
20. In Line No. 12 of 1st Para, “08.07.2001” may be read as “08.03.2001”.
21. In Line No. 13 of 1st Para, “Ref. No. 1091 dated 08.09.2001” may be read as “SAT/GM/PER/C/2001/1091 (C) dated 08.03.2001”.
22. In Line No. 2 of 4th Para, “impinged” may be read as “impugned”.

**ORDER**

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT:**

Sri Pramod Kumar Mishra, Presiding Officer

**REFERENCE NO. 47 OF 2005****PARTIES:**

The management of Satgram Incline of M/s. ECL.

Vs.

Sri Arun Kumar Singh

**REPRESENTATIVES:**

For the management : Shri P. K. Goswami, Ld. Advocate

For the union (Workman) : Shri G. P. Mal & M. Mukherjee, Ld. Advocate

Industry : Coal

State : West Bengal

Dated : 31.08.2015

### AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter NO. L-22012/259/2004-IR(CM-II) dated 05.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

### SCHEDULE

“Whether the action of management of Satgram Incline of M/s. ECL in dismissing Sri A. K. Singh from service vide order dated 08.03.2001 is legal and justified? If not, to what relief he is entitled?”

Having received the Order No. L-22012/259/2004-IR(CM-II) dated 05.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 47 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The delinquent workman Sri Arun Kumar Singh has stated in his written statement that he was appointed by the erstwhile coal company in the year 1972. He was promoted to the post of Assistant Loading Inspector in the year 1998. He had been discharging his duties honestly and diligently. While Sri Arun Kumar Singh was on duty as an Asst. Loading Inspector at N.S. Coal Depot on 05.01.1999, a team of Vigilance Department of ECL visited the colliery and checked the Attendance Record vis-à-vis physical availability at the coal depot of the loading personnel. Due to availability of insufficient coal at the dumping site, the workers were idle at the said coal depot, which was a general phenomenon. Workers used to be scattered and roaming here and there, sometimes, outside the coal loading site and for this reason 17 loading personnel, whose attendance were marked were not found physically available at the Depot on the day of vigilance inspection. The Loaders are all piece-rated employees and they are paid at per with performing workload assigned to each workman and therefore, as per existing practice, they were being allowed attendance any time between 8 AM to 2 PM. Their attendance was valid subject to performing the assigned job depending upon the availability of coal and transport as per rule. This point was categorically explained to the vigilance team members of ECL. But, the team members showed severe highhanded attitude and forced Sri Arun Kumar Singh to sign on many

papers which were written in English which hardly have any material value in the eyes of law. Subsequently, the biased Agent of the colliery transferred Sri Arun Kumar Singh to some interior site to perform some inferior job just to humiliate him and issued him charge sheets on alleged mis-conduct which were replied by him in time suitably. But the management decided to hold a domestic enquiry by an Enquiry Officer. During the enquiry the enquiry Officer stressed on false and fabricated allegations against Sri Arun Kumar Singh without giving him any opportunity to defend the allegations and the principle of natural justice was ignored. Due to biasness of the Enquiry officer, Sri Arun Kumar Singh the delinquent employee could not rely upon the fairness of the domestic enquiry and to have more protection against the ill-motive of both Enquiry officer and management in concerted manner, in very helpless situation Sri Singh took the shelter of Civil Court for intervention and justice. The Learned Court granted stay order. But finally the stay order was vacated by ECL. The Enquiry Officer appointed by Satgram Area of ECL was not fair in conducting the enquiry and he did not offer lawful opportunity to Sri Arun Kumar Singh to defend the wrongful allegations brought against him by the management in the form of a charge-sheet. The enquiry officer conducted the enquiry based on sheer assumption unsupported with correct fact and figure as per his whim and perhaps submitted a fabricated enquiry report to the Disciplinary Authority. The Disciplinary authority / General Manager, Satgram Area vide his Office Order No. SAT/GM/PER/E/2001/1091(c) dated 8.3.2001 dismissed the workman Sri Arun Kumar Singh from service. Sri Arun Kumar Singh has stated that the order of dismissal passed by the Disciplinary Authority i.e. General Manager, Satgram Area is entirely illegal, mis-appropriate, vitiated and biased because of utter violation of natural justice. The Order of dismissal was based on ex-parte enquiry in which the workman was not granted any opportunity to defend the charges leveled against him and to cross examine the witnesses produced by the management. All the 17 workers found absent at the time of checking by the vigilance team (being idle for non availability of sufficient coal) had reported for their respective duties at 8 AM in the morning and were granted attendance in the morning as per rule and practice prevalent in the said colliery, In this mine, the loading personnel are allowed to attend duties any time between 8 AM to 2 PM as they were piece-rated workers and paid on the basis of quantum of work done on availability of loading items. They were given attendance for this reason. Columns are also kept blank for allowing their attendance as and when they may come upto 2 PM subject to performing their assigned work. The workman has prayed to set-aside the order of dismissal passed by the General Manager, Satgram Area against Sri Arun Kumar Singh and also prayed to pass order of reinstatement in the service to the post of Asst. Loading Inspector with full back wages with effect from 08.03.2001.



Management has stated in their written statement the reference is not tenable. The workman concerned is in the habit of manipulating the attendance of the loading personnel of NS Coal Depot, one of the units of the management of ECL and as a result he has gained illegally which amounts to huge wrongful financial loss to the Company. On 6.11.1999 when Sri Arun Kumar Singh was on duty at NS Coal Depot a vigilance team of ECL Company, visited the colliery and inspected the attendance in Form-E Register and compared the same with Form B Register and it was established on record that attendance of 17 persons were booked falsely and as such Sri Arun Kumar Singh was issued with a charge sheet. The workman concerned challenged the charge sheet in Civil Court and prayed for injunction restraining the management to act further with the charge sheet. The management as per the order of the learned Court kept the proceeding of the charge sheet in abeyance. Subsequently when the Injunction was vacated by the learned court the management proceeded the enquiry against Sri Arun Kumar Singh ex-parte as he did not pay any heed to the notice of enquiry given to him by the Enquiry Officer. The Enquiry Officer in the report of the enquiry proved the charges leveled against the workman Sri Arun Kumar Singh, considering the gravity of the mis-conduct grave and serious, the Disciplinary Authority issued the order of dismissal. The workman challenged the order of dismissal in Kolkata High Court which was rejected by Hon'ble Kolkata High Court to take shelter in proper forum. Rest of the allegations of the workman has been denied. The management has stated that the workman is not entitled to any relief.

The workman has stated in his rejoinder/written statement that the reference is maintainable under section 10(1) sub clause (d) of ID Act read with Section 2 A. Further he has stated that he had always been present before the enquiry officer excepting on 06.09.2000 as on the same day, there was a date of Civil Suit also. Therefore, on 04.09.2000 at 11 a.m. the workman Sri Arun Kumar Singh had requested the Enquiry Officer in writing to postpone the enquiry on 06.09.2000. But the Enquiry Officer did not adjourn the proceedings of the enquiry. The Enquiry Officer conducted the enquiry ex-parte in absence of delinquent workman without giving him opportunity to defend himself during proceeding of the enquiry. A copy of the enquiry report only was sent to the workman by special messenger without enclosing therewith the connected papers submitted during enquiry proceedings, advising him to make representation if any against the same if he so desires. The workman Sri Arun Kumar Singh subsequently raised his objection against the dismissal order of GM, Satgram Area and requested for supplying him the copies of supporting documents, on the basis of which the enquiry report was concluded ex-parte by the enquiry officer so that he can make necessary representation against the unlawful and fabricated enquiry

proceedings and the order of dismissal passed against him. But the same was not supplied to him nor the workman was given any response to his application. The enquiry officer had not examined any of the workmen who were marked absent on the fateful day nor he had examined the records pertaining to payment of wages on 06.01.1999 of the concerned 17 workmen. As the workman who had reported in late had been paid wages proportionately as per quantity of work done. The enquiry, therefore, was not fair and proper. It is a fully vitiated enquiry. The punishment was awarded based on improper enquiry proceedings. The delinquent workman was not given any opportunity to participate in the enquiry and the entire proceeding was completed within a day with much hurriedness in most unlawful manner. Sri Arun Kumar Singh has been denied the principle of natural justice.

The workman has filed several documentary evidences as given below:-

(1) Xerox Copy of the Transfer order dated 22.09.1998, (2) Xerox copy of the charge sheet dated 08/09.01.1999, (3) Xerox copy of the letter dated 15.01.1999 marked W-III, (4) Xerox copy of the statement of workman Arun Kumar Singh given to G.M., Vigilance, (5) Xerox copy of the reply of the charge sheet given by the workman dated 25.01.1999, (6) Xerox copy of the charge sheet dated 14.01.1999, (7) Xerox copy of the reply to the charge sheet dated 18.01.1999, (8) Xerox copy of the notice of enquiry dated 25.02.1999, (9) Xerox copy of the order of reinstating the workman dated 05.03.1999, (10) Xerox copy of the workman's application dated 16.04.1999, (11) Xerox copy of the application dated 10.06.2000, 21.07.2000, 04.09.2000, 14.01.1999 and 01.03.2000, (12) Xerox copy of the application dated 18.05.1999, (13) Xerox copy of letter dated 25.08.2000, (14) Xerox copy of the certificate of attendance 25.03.2000, (15) Xerox copy of injunction order of the civil judge, (16) Xerox copy of the report of Enquiry officer and enquiry proceeding, (17) Xerox copy of the vigilance report, (18) Xerox copy of certified copy of statement given before the civil judge in T.S.No. 49/99, (19) Xerox copy of attendance in for E given to the workman by ALC, Asansol, (20) Xerox copy of second show cause notice, (21) Xerox copy of the reply dated 07.03.2001, (22) Xerox copy of the order of dismissal against the workman.

The workman has filed affidavit in his oral evidence. The workman has been cross examined by the management. The management has not filed any documentary or oral evidence.

I have heard the argument of Sri Monoj Mukherjee, learned Advocate attended on behalf of the workman. I have also heard the argument of Sri Pijus Kanti Goswami, learned Advocate attended on behalf of the management. The workman has also filed written argument.

Sri Pijus Kanti Goswami, Learned Advocate, appeared on behalf of the management argued that the

dismissed workman Sri Arun Kumar Singh manipulated the attendance record of 17 loading personnel. The Vigilance Team of ECL Company did not find presence of any workman out of the said 17 persons. The attendance of all such absentees was marked as 'A' (which means Absent) by the vigilance team members but later on by adding letter 'M' with 'A' it was made 'A.M.' and before 'A.M.' figure number '8' was added to make it a 8 A.M. which amounts to manipulation of the records. He has done this serious offence for his personal gain which amounts of mis-conduct of very serious nature as per the Model Standing Order applicable to the delinquent workman. For this misconduct the workman was charge sheeted and subsequently dismissed after proper enquiry. The order of punishment is just and reasonable.

On the other hand, Sri Monoj Mukherjee, Learned Advocate of the delinquent workman has argued that this punishment is harsh, illegal and an glaring act of injustice to the delinquent workman. On the day of the enquiry there was a date fixed of Civil Suit and the delinquent workman was asked to attend civil court on the same date and time. As such, Sri Arun Kumar Singh, the Delinquent workman had requested the Enquiry officer to postpone the date of enquiry on 06.09.2000 by submitting application on 04.09.2000 but his same request was rejected by the Enquiry officer without any intimation to the delinquent workman. In written argument the Learned Advocate Sri Mukherjee contended that the enquiry officer was biased and partial. Copy of the enquiry report along with other relevant papers were not supplied to the workman in spite of his written request. He was denied opportunity to avail assistance of a Lawyer. He was not given any opportunity to represent against the enquiry report.

It is an admitted fact that the delinquent employee Sri Arun Kumar Singh was an employee of ECL Company since 1972 before dismissal. It is also an admitted fact that while the delinquent workman was on duty on 07.01.1999 as Asst. Loading Inspector a Vigilance Team of ECL, made a surprise check at the colliery. The allegation that he had illegally managed the attendance of 17 persons for his wrongful gain and to cause wrongful loss of ECL. Company has already been denied by the concerned workman.

At the very outset it ought to be considered whether denial by management for assistance of Lawyer to workman caused his prejudice. Now question arises whether the delinquent was entitled for assistance of a Lawyer in a Departmental Enquiry? Domestic enquiries are of simple nature where the person appointed as Enquiry Officer is generally not a Lawyer. In other words, the Enquiry Officer holds the enquiry without being influenced by procedural Juggernaut and hear the delinquent employee in person, and in such an informal enquiry a delinquent workman best be able to defend himself. Rules and natural justice do not postulate that the workman should be assisted by a Lawyer. As such in the domestic enquiry the delinquent has no right to take assistance of a Lawyer.

Hon'ble apex court in *Brook Bond (I) Ltd. V/s Subba Raman* (1961) 2 L.L.J. 417 held that the refusal by the enquiry officer to allow a workman to be represented by a lawyer or an outsider, do not vitiate the enquiry.

The workman has stated in his Affidavit that he denied the charges leveled against him by submitting written show cause. He was asked by Enquiry Officer to appear before him on 16.04.1999 in connection with the said enquiry. In persuasion with the said notice he made a representation dated 16.04.1999 for supply of copies of certain documents which are essential for his defence. But he was refused to supply the same on the plea that enquiry was still being commenced. The delinquent workman has also stated that on 18.05.1999 he again requested the Enquiry officer to supply him the copies of the said documents which are essential for his defence but neither those were supplied to him nor he was given any reply. He was given a notice on 03.09.2000 to appear before an enquiry on 06.09.2000 at 11 a.m. The delinquent employee made written request to the Enquiry officer on 04.09.2000 to defer the same to some other date as he was to appear in Learned Civil Court on 06.09.2000 but the enquiry officer did not consider his request to adjourn the proposed enquiry on 06.09.2000 and completed the enquiry on the same day itself ex-parte. This type of enquiry and evidences are vitiated and bad in the eyes of law. All the enquiry was completed in a single day. The delinquent employee was not given any opportunity to defend. Even he was not allowed to represent against the show-cause letter submitted by him against the order of punishment. He was also not supplied with the copies of documents for making representation before passing order of punishment.

As per enquiry report, it appears that workman was guilty of misconduct. The delinquent has manipulated the attendance of workman, for his wrongful gain, which has been deducted by vigilance team.

It appears from records the delinquent employee was issued with two charge sheets. One charge sheet dated 08/09.01.1999 and another on 14.01.1999. The delinquent employee replied both the charge-sheets. Copies of reply as submitted by him were filed. After framing charge against the delinquent employee Sri Arun Kumar Singh, the delinquent employee requested the Enquiry Officer vide his letter dated 16.04.1999 and 18.05.1999 to supply him copies of documents. The required documents are mentioned in the letter dated 16.04.1999 and 18.05.1999. But it is evident from records that the delinquent workman was not supplied those documents to enable him to defend before enquiry.

Hon'ble Karnataka High Court in *GR Venkateshwara Reddy V/s Karnataka State Road Transport Corpn.* Has laid down the following requirements of reasonable procedure:

- (a) The employee shall be informed of the exact charges which he is called upon to meet;

- (b) he should be given an opportunity to explain any material relied on by the management to prove the charges;
- (c) the evidence of the management witness should be recorded in the presence of the delinquent employee and he should be given an opportunity to cross-examine such witnesses;
- (d) the delinquent employee shall either be furnished with copies of the documents relied on by the management or be permitted to have adequate inspection of the documents relied on by the management;
- (e) the delinquent employee should be given the opportunity to produce relevant evidence – both documentary and oral which include the right to examine self and other witnesses; and to call for relevant and material documents in the custody of the employer;
- (f) whenever the inquiring authority is different from disciplinary authority, the delinquent employee shall be furnished with a copy of the inquiry report and be permitted to make a presentation to the disciplinary authority against the findings recorded in the inquiry report.

Reasonable opportunity means not only framing charges and asking for explanation but much more. The employee must be apprised of the of the materials on which the charges were framed so that he could have a proper opportunity of testing or challenging of materials so far as it would be possible for him. Though the technical rules of procedure and evidences do not apply to domestic enquiries, but the rules of natural justice require when a fact is sought to be proved, before a tribunal it must be supported by the statement made in presence of the person against whom the enquiry is held and if a statement is made at his back it ought not to be treated as substantive evidence. "Therefore all the evidences against the person concerned should be taken in his presence and he should be given an adequate opportunity of cross-examining the witnesses giving evidence against him. And no material should be relied upon against him without his being given an opportunity of explaining it. The delinquent workman should further be given the opportunity of questioning the witnesses after knowing in full what they have to state against him. The witnesses on whom the employer relies should generally be examined in presence of the delinquent workman and he must also be informed the materials sought to be used against him and given an opportunity to explain it.

It is elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He, must be given a fair chance to hear the

evidence in support of the charge and to put such relevant question by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an inquiry can be accepted.

Management ought to have supplied the copies, desired by delinquent, to defend the allegations during enquiry proceeding and after issuing show cause notice. If the documents are voluminous and cannot be supplied to him an opportunity has to be given to him to come and personally inspect the concerned documents. Failure on the part of the management to supply copies of such document is to be considered as violation of principle of natural justice. Furthermore, if the documents are demanded by the delinquent employee for his defence are available in the custody of the management, then the delinquent employee either be summoned to personally go through the same or to obtain copies on payment of cost. It is apparent that in this case the copies of documents requisitioned by the delinquent employee were not supplied by the management to the concerned persons for his defence. The enquiry was conducted on 06.09.2000. The delinquent employee has made written request to Enquiry officer to postpone the said enquiry on 04.09.2000 i.e. two days before the date of the enquiry. From perusal of the enquiry report it appears that before 06.09.2003 other dates were fixed for conducting enquiry by the Enquiry Officer but it was turned down as the delinquent had not filed any documents which may show that he was required to appear before Learned Civil Court. Even if it is accepted, he was to appear in Civil Court for the civil suit, then it is relevant to note that it may not be necessary to appear in person in a civil case normally and it can be represented by the Advocate concerned on behalf of the client. But appearance of the delinquent employee in departmental proceedings was more essential. It appears the delinquent employee deliberately did not appear before the Enquiry Officer. Even if the enquiry officer conducted ex-parte enquiry against the delinquent workman he should have been given the opportunity to put his defence. On perusal of the enquiry report dated 29.09.2000 it appears that whole enquiry was completed in one day on 06.09.2000 without participation of the delinquent employee which amounts to an act of denial of natural justice on the part of the management. The delinquent employee was served Show Cause Notice No. SAT/GM/PER/C/2001/816/1063(c) dated 1.3.2001 by Registered AD post. In this notice it is mentioned that "The reply should reach this office within 72 hours of receipt of this letter failing which it will be presumed that you have no explanation to offer and the management shall dispose of the case as deemed fit without further reference to you". On receipt of this letter on 05.03.2001, the delinquent workman requested the General Manager, Satgram Area by his letter dated 07.03.2001 to supply him copies of some documents so that suitable reply to the Show cause, may be sent. But



the management did not hear to supply copies of those documents which were required by the delinquent workman. On 08.03.2001 the General Manager, Satgram Area passed the Dismissal Order vide letter SAT/GM/PER/C/2001/1091(c) dated 08.03.2001.

Imposing punishment is the last stage in the disciplinary action proceedings against a workman. This stage commences after the disciplinary authority has received the report of the enquiry officer, issued a show cause notice to the delinquent workman, if any and has received his response to such notice. Upon considering the gravity of the misconduct, and the extenuating circumstances, if any, and also any other factor that may be relevant in the fact and circumstances of the case, the disciplinary authority has to decide the quantum of punishment that may be imposed on the delinquent.

The charges were brought under Section 17 of the Model Standing Order which amounts to commitment of theft, fraud, dishonesty in connection with the employer's business & property, and willful damage to the property of the Employer. Though the delinquent is guilty of misconduct, but before passing order of punishment the compliance of natural justice was necessary. On the basis of enquiry proceedings based on wrong material fact, evidences and circumstances the dismissal order passed by the disciplinary authority, it is evident that the workman has been dismissed from service without complying the principle of natural justice. Rather the order of dismissal has been passed in utter violation of principle of natural justice. The delinquent workman has never been granted any opportunity to defend the case in his support.

In view of the facts as above I think it just and proper to modify and substitute the impugned order of punishment by exercising power under Section 11 A of Industrial Dispute Act 1947.

The delinquent workman Sri Arun Kumar Singh if not reached the age of superannuation shall be reinstated in service from 08.03.2001. But as a measure of punishment he will be reinstated with demotion in the lowest post and category in which he was initially appointed in the year 1972. He will not get any type of remuneration excepting 25% of the actual billing amount without any incremental or any other benefits till his reinstatement. If he has reached the age of superannuation, before passing of the Award, he will get 25% of remuneration (as back wages) till date of superannuation, with all pensionary benefits. This must be complied with immediate effect.

#### ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 674.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 88/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/97/2005-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 674.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 88 of 2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/97/2005-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act. 1947.

#### Reference No. 88 of 2005

Employer in relation to the management of Bhowra (S).  
Colliery, M/s. BCCL

AND

Their workman

#### Present :

Sri R.K. Saran, Presiding Officer

#### Appearances:

For the Employers : Sri U.N.Lall, Advocate

For the Workman : Sri K.N.Singh, Rep.

State : Jharkhand

Industry : Coal

Dated 21/03/2016

#### AWARD

By order No.-L-20012/97/2005 IR-(CM-I), dated 02/11/2005 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:



**SCHEDULE**

“Whether the action of the management of Bhowra (S) Colliery of M/s. BCCL in dismissing Shri Ashok Kumar Mahato w.e.f. 03.07.2001 is justified? If so, to what relief is the concerned workman entitled to?”

2. The case is received from the Ministry of Labour on 01.12.2005. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 13.12.2005. The management files their written statement-cum-rejoinder on 30.10.2006. No evidence adduced by either side.

3. The short point involved in the reference is that the workman has been dismissed from his services on absenteeism.

4. During Preliminary hearing, it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for last 14 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee as under ground general Mazdoor cat-I scale. But the workman be kept under probation for a period two year. Therefore the question of granting back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 675.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स टाटा स्टील लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 02/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/44/2011-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 675.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 02 of 2012) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tata Steel Limited and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/44/2011-IR (CM-I)]

M. K. SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act, 1947

**Reference No. 02 of 2012**

Employers in relation to the management of  
M/s. Tata Steel Ltd., Jamadoba

**AND**

Their workman

**Present :**

Sri Rajan Kumar Saran, Presiding Officer

**Appearances:**

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri A. D. Choudhary, Advocate

State : Jharkhand

Industry : Coal

Dated 21/03/2016

**AWARD**

By Order No.L-20012/44/2011-IR (CM-I), dated 20/12/2011, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of Bhelatand Colliery of M/s. Tata Steel Ltd in not paying the legal dues in respect of Shri MD Khalil from the date of his appointment is fair and justified? To what relief the concerned workmen is entitled to?”

2. The case is received from the Ministry of Labour on 06.01.2012. After receipt of the reference, both parties are noticed. The workman files their written statement on 19.06.2013. Thereafter the management files their written statement-cum-rejoinder on 21.01.2014. One witness each side adduced respectively. Document by both side filed but the document of management is marked as M-1 to M-3.

3. The case of the workman was they served the management since 1980 as casual worker and made permanent since 19.04.1983 and the concerned workman was illegally dismissed from the service on the plea of refusal to work for which material and tools were not provided for coal cutting alongwith two other miner w.e.f 08.04.1985, and after one year he was reinstated as fresh employee on 14.10.1986 with certain conditions That if the workman works successfully he will be entitled to continuity of service from 1983.

3. It is also submitted by the workman that after retirement of the concerned workman w.e.f. 30.11.2004 all other dues paid but not from the date of appointment but from the date of reinstatement since 14.10.1986 but the previous dues from 19.04.1983 denied and refused by the concerned management. The concerned workman is reinstated as such he is entitled to get the wages since 19.04.1983.

4. It is further stated that the concerned workman has not paid the amount of P.F with proper calculation as well as the management also refuse to pay the amount of P.F and RG for the period from 19.04.1983 to 08.04.1985 which is totally wrong baseless as they denied continuity wrongly. Hence dispute arose.

5. On the other hand the case of the management that the concerned workman was appointed on 19.04.1983 as a miner and continued till 08.04.1985 and he was dismissed from service on charges of misconduct. After certain deliberation, the management decided to take back the concerned workman into the service subject to certain condition, stated above.

6. The workman was reinstated w.e.f 14.10.1986 was considered the workman as fresh employee with condition that if his one year performance was found satisfactory, then he may be extended the benefits of continuity of service for the period when he was dismissed from the services of the company. The workman's performance was not found satisfactory and thus he was not extended the benefit of continuity of service. Thereafter he was continued to work with the management till his retirement i.e 30.11.2004.

7. It is further stated by the management that the concerned workman was only entitled to retiral benefits in accordance with Law. Accordingly the concerned workman has received P.F for all such period when he has contributed to the CMPF. In the case of gratuity, the concerned workman has been settled his gratuity dues considering 14.10.1986 to be the date of his appointment and he has received the dues without any protest as soon as attaining the age of superannuation.

8. The management submits that the concerned workman representation before the management for payment of retiring gratuity, CMPF and other dues correctly and handing over long service of 20 years on 17.02.2009. Thereafter the management examined his application and found his application has got no merit accordingly the management gave him written reply vide letter dated 12.03.2009 mentioning the facts.

9. The short point to be decided in this case that the workman concerned is entitled to his retirement benefits or not.

10. The workman has claimed his balance retirement dues from the management through this reference. On the

other hand, the management submitted, that the workman has received all his dues from the management and stated that the workman was appointed on 19.04.1983 as miner and continued till 08.04.1985. on which day he was dismissed.

11. Again on consideration of his case, he was given fresh appointment on 14.10.1986 with certain conditions, i.e if his one year of service from his fresh appointment will be satisfactorily he will be given continuity of service from the period of his dismissal day. It is also mentioned in the written statement, within that year the work of the workman was not satisfactory and as such he was not given the continuity of service.

12. But regarding bad performance, no notice was served upon the workman, no charges were made and no memo as well as no show cause issued to the concerned workman for bad performance in the said one years period. The management witness though filed certain documents, those are photocopies but it is marked as M-1 to M-3. The witness had no personal knowledge of that mere on stray allegations. Therefore without any concrete proof of misconduct his continuity of service should not be refused.

13. It is noticed that during the pendency of this case the concerned workman Md. Khalil died on 20.09.2014 and as per order dated 26.03.2015 Smt Safiran Bibi w/o deceased workman is substituted in this case.

14. Considering the facts and circumstances of this case, I hold that the action of the management of Bhelatand Colliery of M/S Tata Steel Ltd in not paying the legal dues in respect of Latei MD Khalil from the date of his appointment is not fair and justified, therefore the wife of deceased workman Smt Safiran Bibi be given his all dues from 19.04.1983 till his superannuation, with continuity of service.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 676.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 13/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/381/2000-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 676.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 13 of 2001) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/381/2000-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act, 1947.

#### Reference No. 13 of 2001

Employer in relation to the management of  
Bastacolla Area, M/s. BCCL

AND

Their workman

#### Present :

Sri R.K.Saran, Presiding Officer

#### Appearances:

For the Employers : Sri S.K. Behra, Asstt. Manager

For the Workman : None

State : Jharkhand

Industry : Coal

Dated 17/03/2016

#### AWARD

By order No. L-20012 /381/2000-IR(C-1) dated 12/01/2001, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

#### SCHEDULE

“Whether the action of the management of M/s. BCCL in dismissing the services of the workman Sri Karu Bhuia Ex- Miner Loader is justified and legal? If not, to what relief is the workman entitled?”

2. After receipt of the reference, both parties are noticed. But none appears in the case by the workman. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

का.आ. 677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल

के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 31/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/32/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 677.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 31 of 2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/32/2009-IR (CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act, 1947.

#### Reference No. 31 of 2010

Employers in relation to the management of  
W.J. Area of M/s. BCCL

AND

Their workman

#### Present :

Sri Rajan Kumar Saran, Presiding Officer

#### Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri Pintu Mondal, Rep.

State : Jharkhand

Industry : Coal

Dated 18/03/2016

#### AWARD

By Order No. L-20012/32/2009-IR (CM-I), dated 23/03/2009, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of Bhatdee Colliery of M/s. BCCL in changing the date of birth of Shri Naraya Mahato, Trammer from 23.05.1952 as alleged to be originally record in form “B” Register to 11.12.1949 is justified and legal?

(ii) To what relief is the workman concerned entitled?”

2. The case is received from the Ministry of Labour on 30.03.2010. After notice, both parties appeared. The workman files their written statement on 21.04.2010, After long delay the management files their written statement on 27.07.2011 Thereafter rejoinder and documents filed by the respective parties. Neither the evidence nor the document marked by both side.

3. The case of the workman is that the workman concerned was appointed on 23.05.1980 at Bhatdee Colliery as Trammer having the date of birth as 23.05.1952. and service excerpt was filled by Colliery office in the year 1987 and that time colliery rightly mentioned the date of birth of the concerned workman as 23.05.1952. The workman himself see and put his sign on his service excerpt. But the management intentionally and arbitrarily cut the original date of birth from service excerpt of the concerned workman and put the fabricated date of birth as 11.12.1949.

4. It is also submitted by the workman that without any authentic document /opinion of medical Board the management cannot change the date of birth of concerned workman. The Union submits that in the form “B” register the date of birth of concerned workman is written as 23.05.1952 but the management did not show the original form “B” register even the union demanded the form “B” register from the management in conciliation proceeding.

5. It is further submitted by the workman that if any cutting /overwriting made on any paper, there must be initial, date and seal of officer incharge who is doing entry, the workman complaint about wrong entry of his date of birth before the management but the management could not take any action and handed over notice of retirement on 01.07.2009. In this way the management force the workman for retirement without any authentic document. So this is also the case of premature retirement which is illegal and against the provision of I.D Act Hence dispute arose.

6. This is the case of the management that the form “B” register is statutory register maintained under the mines Act. The particulars recorded in Form “B” register are not changeable in any circumstances. The date of birth of the workman concerned which was recorded in form “B” register at the time of his appointment at Bhurungia project.

7. It is also submitted by the management that Sri Narayan Mahato was appointed on 23.05.1980 at Bhatdee Colliery. And the service excerpt issued to him in the year 1987 in which the date of birth of Sri Mahato recorded as 11.12.1949. After receiving the same in the year 1987 he returned back the same after giving name of his dependent putting his signature on the same. He has not submitted any objection regarding his date of birth through service excerpt at the time of submitting the same.

8. The date of birth was recorded in service excerpt on the basis of Form “B” register of Bhurungia Project where the workman initially appointed. He has also put his signature in token of acceptance of entries made in the form “B” register at the time of his appointment. It is further submitted that the union raised an industrial dispute for change of his date of birth in service record at the fag-end of his service. Which is not maintainable as per the decision of the Hon’ble Supreme Court.

9. The short point to be decided in the case is as to whether the workman has been retired prematurely though he had some more days to work or not.

10. The management counsel solely relied upon the Form “B” register as well as all other document which was filed at the earliest stage signed and authenticated by the workman. The management also kept that on record. But the workman filing some stray document has claimed that he was retired prematurely.

11. The workman raised the claim at the fag end of his service carrier. The belated claim is always after thought and as such this Tribunal did not attach any importance on it. Moreover the workman has not examined himself in the case nor filed any authentic testimonials.

12. In this context very much material of this judgment is as below:

As per civil appeal No.2331 of 2004 page 279 in which— Court to be circumspect,cautions and careful while issuing direction for correction in date of Birth of a Govt. servant- particularly at the fag end of his carrier or on the eve of his superannuation – Employee cannot claim as a matter of right for correction in his date of birth even if has good evidence.

13. Considering the facts and circumstances of this case, I hold that the action of the management of Bhatdee Colliery of M/S BCCL in changing the date of birth of Shri Naraya Mahato, Trammer from 23.05.1952 as alleged to be originally record in form “B” Register to 11.12.1949 is legal justified. Hence he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer



नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 678.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 132/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/04/2001-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 678.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 132 of 2001) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/04/2001-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act, 1947.

#### Reference No. 132 of 2001

Employer in relation to the management of  
Sijua Area of M/s. BCCL

AND

Their workman

#### Present :

Sri R. K. Saran, Presiding Officer

#### Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the Workman : None

State : Jharkhand

Industry : Coal

Dated 17/03/2016

#### AWARD

By order No. L-20012 /04/2001-IR(C-1) dated 22/05/2001, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10

of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

#### SCHEDULE

“Whether the demand of the RCMS from the management of BCCL Sijua Area, for appointment of Sri Santosh Kumar Paswan, S/O Late Kishun dusad as per clause 9.4.2 of NCWA on compassionate ground is proper and justified. If yes, what relief the said dependant of the workman entitled ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently as well as no step taken by the workman. Cases remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 679.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 134/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/124/1994-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 679.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 134 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/124/1994-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D. Act, 1947

#### Reference No. 134 of 1994

Employers in relation to the management of  
Bhurkunda Colliery of M/s. BCCL

AND

Their workman

**Present :**

Sri R. K. Saran, Presiding Officer

**Appearances:**

For the Employers : Shri D. K. Verma, Advocate

For the Workman : None

State : Jharkhand

Industry : Coal

Dated 18/03/2016

**AWARD**

By order No. L-20012/124/1994-IR(C-1) dated 01/06/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of Bhurkunda Colliery of M/s. Central Coalfields Ltd. P. O. Bhurkunda District Hazaribagh is justified in not paying wages and other benefits for the period from 01/07/1991 to 13/08/1993 to workman Shri Munir Mian, Miner? If not, to what relief the workman is entitled?”

2. After receipt of the reference, both parties are noticed. But the workman appearing for certain dates. Subsequently the workman does not appear. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 अप्रैल, 2016

**का.आ. 680.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 236/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.04.2016 को प्राप्त हुआ था।

[सं. एल-20012/14/1994-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th April, 2016

**S.O. 680.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 236 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 07.04.2016.

[No. L-20012/14/1994-IR (C-I)]

M. K. SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

**Reference No. 236 of 1994**

Employers in relation to the management of Dhobari Colliery of M/s. BCCL

AND

Their workman

**Present :**

Sri R. K. Saran, Presiding Officer

**Appearances:**

For the Employers : Shri U.N. Lall, Advocate

For the Workman : None

State : Jharkhand

Industry : Coal

Dated 16/03/2016

**AWARD**

By order No. L-20012/14/1994-IR(C-1) dated 12/10/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of Dhobari Colliery under Bastacolla Area No. IX of M/s. BCCL in denial of employment to Smt. Jugni Kamin, W/O Late Ruplal Singh, is justified? If not, to what relief, she is entitled?”

2. After receipt of the reference, both parties are noticed. But the workman appears for certain dates. Subsequently the workman does not appear. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2016

**का.आ. 681.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 1/2013, 2/2013, 3/2013, 4/2013, 5/2013, 15/2013, 16/2013, 17/2013, 18/2013, 19/2013, 20/2013, 21/2013, 24/2013, 70/2013, 71/2013, 72/2013, एवं 74/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/04/2016 को प्राप्त हुआ था।

[सं. एल-40012/111-115/2012-आईआर (डीयू),

सं. एल-40012/04-11/2013-आईआर (डीयू),

सं. एल-40012/27-29/2013-आईआर (डीयू),

सं. एल-40012/31/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 8th April, 2016

**S.O. 681.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 1/2013, 2/2013, 3/2013, 4/2013, 5/2013, 15/2013, 16/2013, 17/2013, 18/2013, 19/2013, 20/2013, 21/2013, 24/2013, 70/2013, 71/2013, 72/2013, and 74/2013,) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 08/04/2016.

[No. L-40012/111-115/2012-IR(DU),

No. L-40012/04-11/2013-IR(DU),

No. L-40012/27-29/2013-IR(DU),

No. L-40012/31/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No.1, 2, 3, 4, 5, 15, 16, 17, 18, 19, 20, 21, 24, 70, 71, 72 and 74 of 2013, ( 17 references) as per detail given below:

(1) ID 1 of 2013:Sh. Ramesh Singh S/o Sh. Kali Ram, R/o Vill Junidhar, PO Kansa Koti, Tehsil Rohru, Shimla (Himachal Pradesh).

Reference No. L-40012/111/2012-IR(D.U) dated 26.02.2013

“Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Ramesh Singh S/o Sh. Kali Ram w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? If not, then what relief the workman is entitled for and what directions are necessary in the matter?”

(2) ID 2 of 2013:Sh.Chain Ram S/o Sh. Sanya Ram, R/o Vill Chamrar, PO Lower Koti Teh. Rohru, Shimla (Himachal Pradesh)

Reference No. L-40012/112/2012-IR(DU) dated 26.02.2013:

“Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Chain Ram S/o Sh. Sanya Ram w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? If not, then what relief the workman is entitled for and what directions are necessary in the matter?”

(3) ID 3 of 2013:Sh.Het Ram S/o Sh. Seria Ram, R/o Vill Mundo, Teh. Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/113/2012-IR(DU) dated 26.02.2013:

“Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh.Het Ram S/o Sh. Seria Ram w.e.f. 28-02-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? If not, then what relief the workman is entitled for and what directions are necessary in the matter?”

(4) ID 4 of 2013:Sh.Ramesh Chand S/o Sh. Chet Ram, R/o Vill Gharog, PO Nehra, Teh. & Distt. Shimla (Himachal Pradesh)

Reference No. L-40012/114/2012-IR(DU) dated 26.02.2013:

“Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh.Ramesh Chand S/o Sh. Chet Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? If not, then what relief the workman is entitled for and what directions are necessary in the matter?”

(5) ID 5 of 2013:Sh.Jagdish Chand Rohal S/o Sh. Med Ram, R/o Vill Katch., Teh. & PO Kandaghat, Shimla (Himachal Pradesh)

Reference No. L-40012/115/2012-IR(DU) dated 26.02.2013:

“Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Jagdish Chand Rohal S/o Sh. Med Ram w.e.f. 28-02-2011 who was engaged by General

Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? If not, then what relief the workman is entitled for and what directions are necessary in the matter?"

- (6) ID 15 of 2013:Sh.Prateek Kumar S/o Sh. Paras Ram, R/o Vill Ghoond, Teh. Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/04/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh.Prateek Kumar S/o Sh. Paras Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? To what relief the workman is entitled to?"

- (7) ID 16 of 2013:Sh.Suresh Kumar S/o Sh. Kesru Ram, R/o Vill Bhajwana, Teh. Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/05/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh. Suresh Kumar S/o Sh. Kesru Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just, valid and legal? To what relief the workman is entitled to?"

- (8) ID 17 of 2013:Sh.Rajesh Thakur S/o Sh. Deep Ram, R/o Surinder Building Shadyana Road, Theog, P.O. & Tehsil Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/06/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh.Rajesh Thakur S/o Sh. Deep Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (9) ID 18 of 2013:Sh. Lekh Raj S/o Late Sh. Daulat Ram, R/o VPO Bahli. & Tehsil Rampur, Shimla (Himachal Pradesh)

Reference No. L-40012/07/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh. Lekh Raj S/o Late Sh. Daulat Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (10) ID 19 of 2013:Sh. Hem Chand S/o Sh. Kesru Ram, Vill Shalapri, PO Mahog, Tehsil Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/08/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh. Hem Chand S/o Sh. Kesru Ram w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (11) ID 20 of 2013:Sh. Mohan Lal S/o Sh. Chaman Lal, Vill Chikri, PO Taklesh, Tehsil Rampur, Shimla (Himachal Pradesh)

Reference No. L-40012/09/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh. Mohan Lal S/o Sh. Chaman Lal w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (12) ID 21 of 2013:Sh. Joginder Singh S/o Sh. Parma Ram, Vill Seti, PO Shilaroo, Tehsil Theog, Shimla (Himachal Pradesh)

Reference No. L-40012/10/2013-IR(DU) dated 12.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Sh. Joginder Singh S/o Sh. Parma Ram Lal w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (13) ID 24 of 2013:Sh.Rajesh Kumar S/o Sh. Kanwar Singh, R/o Pikhadhar, PO Khadralla, Tehsil Rohru, Shimla (Himachal Pradesh)

Reference No. L-40012/11/2013-IR(DU) dated 22.04.2013:

"Whether the action of the management of BSNL, Shimla in terminating the services of Rajesh Kumar S/o Sh. Kanwar Singh w.e.f. 31-01-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamirpur is just, valid and legal? To what relief the workman is entitled to?"

- (14) ID 70 of 2013:Sh. Bal Krishan Thakur S/o Sh. Prem Chand, R/o Vill Raghaon Teh. & Distt, Solan (Himachal Pradesh)

Reference No. L-40012/27/2013-IR(DU) dated 24.05.2013:

"Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Bal Krishan Thakur S/o Sh. Prem Chand w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/s. H.P. Ex-servicemen Corporation, Hamir pur is just and



legal? To what relief the workman is entitled to and what directions are necessary in the matter?"

(15) ID 71 of 2013: Sh. Roshan Lal S/o Sh. Naya Ram, R/o Vill Bhadril, PO Deem, Teh. Nirmand, Kullu, (Himachal Pradesh)

Reference No. L-40012/28/2013-IR(DU) dated 24.05.2013:

"Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Roshan Lal S/o Sh. Naya Ram w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/S H.P. Ex-servicemen Corporation, Hamir pur is just and legal? To what relief the workman is entitled to and what directions are necessary in the matter?"

(16) ID 72 of 2013: Sh. Amar Chand S/o Late Cheti Ram, R/o VPO Koyal Teh. Nirmand, Kullu, (Himachal Pradesh)

Reference No. L-40012/29/2013-IR(DU) dated 24.05.2013:

"Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Amar Chand S/o Sh. Cheti Ram w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/S H.P. Ex-servicemen Corporation, Hamir pur is just and legal? To what relief the workman is entitled to and what directions are necessary in the matter?"

(17) ID 74 of 2013: Sh. Ashish Kumar S/o Sh. Prashar Ram, R/o VPO Nirmand Teh. Nirmand, Kullu, (Himachal Pradesh)

Reference No. L-40012/31/2013-IR(DU) dated 24.05.2013:

"Whether the action of the management of Bharat Sanchar Nigam Limited, Shimla in terminating the services of Sh. Ashish Kumar S/o Sh. Prashar Ram w.e.f. 31-1-2011 who was engaged by General Manager, BSNL, Shimla through contractor M/S H.P. Ex-servicemen Corporation, Hamir pur is just and legal? To what relief the workman is entitled to and what directions are necessary in the matter?"

### VERSUS

1. The General Manager, Telecom, Bharat Sanchar Nigam Ltd., Shimla Telecom District, Block No.35, SDA Complex, Kasumpti, Shimla (Himachal Pradesh)-9

2. M/s Equinox Guards & Security Services, VPO Ambari Malan, Kangra-(HP)

3. M/s HP Ex-Servicemen Corporation Haripur- Distt. Hamirpur, Hamirpur (Distt.), HP

### APPEARANCES:

For the workmen : Shri J.R. Syal, Advocate

For respondent No.1 : Shri D.R. Sharma, Advocate

For respondent No. 2&3 : None

### AWARD

Passed on 31.03.2016

2. All the above mentioned 17 reference being similar in nature as the facts of all the above cases are same and vide this Tribunal's order dated 19.6.2015, all the above 17 reference were consolidated and I.D.1 of 2013 Ramesh Singh Vs. BSNL was made the leading case. In the above references, the workmen claiming reinstatement along with seniority and continuity in service and all other consequential benefits. Thus all the references are taken together and are being answered by joint award.

3. The workmen in claim statements submitted that they were initially appointed by respondent No.1 earlier through M/s Equinox Guards & Security Services, VPO Ambari Malan, District Kangra H.P. and thereafter through M/S HP Ex-Servicemen Corporation Haripur- Distt. Hamirpur, HP as security guard at BTS Tower at different places under the jurisdiction of respondent No.1. and they were issued identity cards by respondent No.1. It is further submitted that respondent No.1 availed the services of the workmen for multifarious duties such as rectification of faults in cables, to distribute/despatch official files and documents from one office to another and also taken the services during night hours which the workmen have done with utmost sincerity and loyalty and there was no complaint against the workmen from any corner. It is further pleaded by the workmen that their services were terminated by the respondents without issuing any charge sheet, notice, enquiry or paying any compensation to the workmen. It is further submitted by the workmen that respondent No.1 has executed an agreement with respondent No.3 to provide security guards for the purpose of security services of the area of the BSNL GMTD. Consequently the services of the workmen were availed by respondent No.1. It is further submitted by the workmen that normally the relationship of employer and employee does not exist between an employer and contractor and servant of an independent contractor, however a employer retains or assumes control over the means and method by which the work of the contractor is to be done, it may be said that the relationship between the employer and employee exist between him and the servants of such a contractor. As the workmen were required for the purpose of proper security services of the area of the respondent No.1 and respondent No.1 has retained complete control on employment, work and continuance of service of the contract labour, therefore the security work being a work of permanent and perennial nature, therefore, the employment of the staff for respondent No.1 through contractor is an unfair labour practice and the workmen should be reengaged in the service by respondent No.1 being principle employer. It is further pleaded that the termination of the workmen are against the provisions of the Industrial Disputes Act and the Contract labour Abolition Act, therefore, the workmen

are entitled for their reinstatement with effect and continuity of service with full back wages from the date of their respective terminations as mentioned in the term of references above.

4. The management of respondent No.1 filed reply to the claim statements stating therein that the claim statement qua respondent No.1 is not maintainable as the workmen were never employed by the respondent No.1 and there is no relationship of master and servant. It is further submitted that services of watch and ward staff were hired through approved agency i.e. Respondent No.2 and 3 and the respondent No.1 has no role to play as the workmen were not their employees. It is further pleaded by the management that all the workmen except Chain Ram (ID No.2 of 2013) and Suresh Kumar (ID NO.16 of 2013) also approached the Hon'ble C.A.T Chandigarh by filing separate OAs in which the workmen were granted liberty to approach this Court which fact has been concealed by the workmen. On merits it is pleaded that watch and ward staff were hired through approved agency i.e. respondent No.2 and 3 and the salary of the workmen were paid through the approved agency i.e. respondent No.2 and 3. And the management of respondent No.1 has executed the agreement for the said work and as the workmen were not employees of the respondent No.1 therefore, the question of issuance of the identity card does not arise. It is further submitted by the respondent No.1 that work was executed on need basis and as per the requirement of the organisation. It is further submitted that as the workmen were never engaged by the respondent NO.1, therefore, the question of their reinstatement does not arise as there is no relationship of master and servant and the respondent No.1 prayed for rejection of the reference. Along with the written statement, the respondent No.1 also filed documents as annexure R-1 and R-2.

5. Respondent No.3 appeared and filed reply stating therein that the management of respondent No.3 supplied Security Guards to BSNL during the period 31.8.2009 to 31.10.2009 whereafter M/S H.P. Ex-Servicemen Corporation was engaged by BSNL and entire staff of the respondent No.3 was taken over by respondent NO.2 i.e. M/S HP Ex-Servicemen Corporation and at the time of alleged terminations of the workmen, respondent No.3 was nowhere in picture and it is prayed by the respondent No.3 that reference may be rejected qua respondent No.3. After filing of the reply, the respondent No.3 stopped appearing and proceeded ex-parte vide this Tribunal order dated 19.6.2015. The respondent No.2 never appeared nor filed any reply to the claim statement hence proceeded ex-parte vide order dated 19.6.2015.

6. The workmen also filed rejoinders to the reply filed by respondent no.1 reiterating the claim made in claim statements and also pleaded that the O.As filed by the

workmen were disposed off on the ground of jurisdiction not on merit by the Central Administrative Tribunal.

7. In evidence, the workmen filed their respective affidavits. Being similar in nature one workman Jagdish Kumar was examined who tender his affidavit Ex.W1 and he was cross-examined by the counsel for respondent No.1. The management in evidence filed affidavit Ex.M1 of Anita Bhardwaj working as AGM in the office of General Manager Shimla who also relied on document Ex.M2 containing Annexures from pages 38 to 65. The said witness was also cross-examined by the counsel for the workmen.

8. I have heard the parties, gone through the evidence and record.

9. The management in documentary evidence filed photo copy of agreement dated 27-8-2007 between G.M.T.D.Shimla, as one party and M/S Equinox Guards and Security Services, the contractor as annexure-1, photocopy of approved wage structure, receipt dated 27-8-2007 on account of 50% security, letter dated 11/12-6-2009 from D.E.Admn O/o GMTD Shimla, regarding termination of services of 47 security guards deployed at BTSs on Non BSNL cites, photo copy of locations under GMTD Shimla, another agreement dated 30-11-2009 between H.P.Ex-Servicemen Corporation, Hamirpur as party no.1 and General Manager Telecom, Distt. Shimla as party no.2, copy of wage structure running in two pages, letter dated 27-12-2010 by AGM (HR/Admn.) O/o G.M.T.D. Shimla to M/S H.P. Ex-Servicemen Corporation, Hamirpur regarding withdrawal of services of 17 security guards deployed at BTSs in Shimla SSA, letter dated 21-12-2010 by AGM (HR/Admn.) O/o G.M.T.D. Shimla to M/S H.P. Ex-Servicemen Corporation, Hamirpur regarding withdrawal of services of 7 security guards deployed at BTSs in Shimla SSA, letter dated 16-12-2010 by AGM (HR/Admn.) O/o G.M.T.D. Shimla to M/S H.P. Ex-Servicemen Corporation, Hamirpur regarding withdrawal of services of 28 security guards deployed at BTSs in Shimla SSA, letter dated 3-12-2010 by AGM (HR/Admn.) O/o G.M.T.D. Shimla to M/S H.P. Ex-Servicemen Corporation, Hamirpur regarding withdrawal of security guards from the various locations w.e.f. 1-1-2011.

10. On behalf of the workmen a judgment of Hon'ble Supreme Court passed in Civil Appeal No.3166 of 2002 Ram Singh and others Vs. Union Territory, Chandigarh and others with Civil Appeal No.3200 of 2002 Dharam Pal and others Versus. Union Territory, Chandigarh and others and Civil Appeal No.3167 of 2002 Amar Kumar and others Vs. Union Territory, Chandigarh and others decided on 7-11-2003. The Hon'ble Supreme Court in the above cases held that Constitution of India, Articles 14, 16 and 226 – Contract Labour (Regulation and Abolition) Act, 1970, Section 10 – Contract labour – Regularisation of – Relationship of employee and employer – Validity of labour contract – Court can lift the veil and pierce behind it to

ascertain the nature of employment and can hold direct relationship of labour with the principal employer – That however cannot be done in writ proceedings or the appeals arising from the same – Workman will have to approach the industrial court for industrial adjudication.

11. In this context, if we examine the pleadings of the parties, the workmen mentioned in para no.1 of the claim statements that workmen were appointed by respondent no.1 through M/s. Equinox Guards and Security Services and thereafter through M/s. H.P. Ex-Servicemen Corporation, Hamirpur. The management in the this context pleaded that the workmen were never employed by the answering respondent (Respondent no.1) . It is further pleaded that the services of the watch and ward were hired through approved agency M/s. H.P. Ex-Servicemen Corporation, Hamirpur and M/s. Equinox Guards and Security Services. Salaries of the workmen were paid through agency only i.e. management no. 2 and 3 and the management has no role to play as the workmen were not the employee of respondent no.1 i.e. BSNL Shimla. WW1 Jagdish Chand Rohal in his cross examination clearly stated that “ I have not received any appointment letter from BSNL. ....I have no salary slip of BSNL. I have not received any salary from BSNL. “ This witness further admitted that he do not know who is making payment of salary to him and his salary is credited in his saving bank account.

12. Thus the workmen themselves admitted that they had not received any appointment letter from the BSNL. The management witness MW1 in her cross-examination stated that the workmen are working as security guards through contractor for maintaining security which is need basis job and at present there is no need of security guards at the places where the workmen were working. This witness further stated that BSNL is the principal employer as the contractor provides the workmen to work with BSNL and the workmen so provided by the outsourcing agency are not being transferred by the BSNL. They are under the control of the out sourcing agency. BSNL do not suggest the contractor for transferring the workmen. BSNL being the principal employer pay to the contractor and contractor subsequently disburse the wages to the workmen as per entitlement.. We do not know whether workmen have completed 240 days in preceding year to the date of their disengagement. It is for the contractor to verify the attendance of the workmen. This witness also stated that accordingly the management intimated to the contractor that no work is available. BSNL did not terminate the services of the workmen. .BSNL intimated to the contractor. It is further stated by MW1 That deductions and deposition of EPF was the liability of the contractor as per the agreement.

13. Thus from the oral as well as documentary evidence, it is clear that the workmen were not employed

by the BSNL ( respondent No.1) and workmen were engaged by the contractor approved out source agency. From the oral and documentary evidence, it is clear that the respondent No.1 had no control over the workmen; their salary was disbursed by the contractor. In the claim statement, the workmen sought the relief of reinstatement from respondent No. 1 which cannot be granted in view of the facts and circumstances of the case as the workmen were never the employees of the management of BSNL i.e. respondent No. 1. So far as the violation of the provisions of Section 25 F. G. H. of the Industrial Disputes Act 1947 are concerned, the workmen had not pleaded in the claim statement nor proved that they had completed more than 240 days in preceding year to the date of termination.

14. In view of the facts and circumstances of the case and discussion made above, it is held that the workmen are not the employee of the BSNL and there exists no relationship of employer and employee between the management of BSNL and the workmen and the workmen are not entitled to any relief.

15. All the references are answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication. A copy of this award be placed on each reference file as mentioned above.

Chandigarh  
31.03.2016.

S. P. SINGH, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 682.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार तम्बाकू विकास निदेशालय के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 58/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.4.2016 को प्राप्त हुआ था।

[सं. एल-42011/31/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 682.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 58/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tambaku Vikas Nideshalaya, Chennai and their workmen, which was received by the Central Government on 11.04.2016.

[No.L-42011/31/2011-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD****Present:**

Sri Muralidhar Pradhan, Presiding Officer

Dated the 15th day of March, 2016

**INDUSTRIAL DISPUTE No. I.D. 58/2011****Between :**The President,  
Cost of Production Scheme  
Employees Association,  
&th Street, Bhagyanagar,  
Ongole – 523001

...Petitioner

AND

The Director-in-charge,  
Tambaku Vikas Nideshalaya,  
M/o Agriculture,  
D/o Agriculture & Cooperation,  
Sastri Bhawan Annexe, III rd floor,  
26, Haddows Road,  
Chennai – 600006

...Respondent

**Appearances :**For the Petitioner : M/s. K. Lakshman, P. Sardar  
Singh Chauhan & M. Kiran  
Kumar, AdvocatesFor the Respondent : Sri Ponnamm Ashok Goud,  
Advocate**AWARD**

The Government of India, Ministry of Labour by its order No. L-42011/31/2011-IR(DU) dated 5.9.2011 referred the following dispute between the management of Tambaku Vikas Nideshalaya, M/o Agriculture and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

**SCHEDULE**

“Whether the action of the management of Director, Tobacco Development, Chennai in not inducting the services of field staff under ‘Subordinate Statistical Services’ is legal and justified? What relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 58/2011 and notices were issued to the parties concerned.

2. The Petitioner Union has filed their claim statement and Respondents also filed their respective counter statement.

3. The case stands posted for recording Petitioner’s evidence.

4. Inspite of availing several opportunities to adduce evidence, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union, which clearly indicates that the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union has got no claim to raise. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 15th day of March, 2016.

MURALIDHAR PRADHAN, Presiding Officer

**Appendix of evidence**

Witnesses examined  
for the Petitioner

NIL

Witnesses examined  
for the Respondent

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 683.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक्सपोर्ट इंसपेक्शन एजेंसी, कोलकाता के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 03/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.4.2016 को प्राप्त हुआ था।

[सं. एल-42012/05/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 683.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 03/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Export Promotion Agency, Kolkata and their workman, which was received by the Central Government on 11.04.2016.

[No. L-42012/05/2011-IR (DU)]

P. K. VENUGOPAL, Desk Officer



**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT KOLKATA****Reference No. 03 of 2011****Parties :**Employers in relation to the management of Export  
Inspection Agency - Kolkata**AND**

Their workman.

**Present :**

Justice Dipak Saha Ray, Presiding Officer

**Appearance:**On behalf of the : Mr. Shyamal Chakraborty,  
Management Ld. CounselOn behalf of the : None  
Workman

State : West Bengal Industry :

Dated: 29th March, 2016.

**AWARD**

By Order No.L-42012/5/2011-IR(DU) dated 02.06.2011 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Export Inspection Agency, Kolkata, in terminating the services of workman Shri Sujit Biswas w.e.f. 01/05/2009, by verbal order, is legal and justified? What relief the workman is entitled to?”

2. When the case is taken up today for hearing, none appears on behalf of the workman though the management is represented by its Ld. Counsel. It appears from the record that the workman at whose instance the present reference has been initiated, has not turned up for the last three consecutive dates.

3. Considering the above, it may reasonably be presumed that the workman is not at all interested to proceed further with the case. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above, instant reference is disposed of by passing a “No Dispute Award”.

Kolkata,

The 29th March, 2016.

JUSTICE DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 684.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईडीपीएल, वीरभद्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 88/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.4.2016 को प्राप्त हुआ था।

[सं. एल-42011/191/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 684.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 88/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IDPL, Virbhadr and their workman, which was received by the Central Government on 08.04.2016.

[No. L-42011/191/2011-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT-II, DELHI****Present :** Shri Harbansh Kumar Saxena**I.D. No. 88/2012**Sh. Rishipal Arya,  
Chargeman (Services),  
B-263, IDPL, Virbhadr,  
Rishikesh,  
Dehradun

...Workman

**Versus**The General Manager  
IDPL, Virbhadr,  
Rishikesh,  
Dehradun

...Management

**AWARD**

The Central Government in the Ministry of Labour vide notification No. L-42011/191/2011-IR(DU) dated 17.02.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of IDPL in accepting the application under VRS without following any principle of seniority and termination of service on VRS of workman is legal and justified? What relief the workman is entitled to?”

On 13.03.2012 reference was received in this Tribunal. Which was register as I.D No. 88/2012 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement alongwith Photostat copies of documents on 11.05.2012.

In his claim statement he stated that manager IDPL corporate office, Gurgaun, in his letter directed all the workmen to file VRS form up to 31.12.2002. In case of default workmen shall be retrenched in future. Due to which all workmen filled VRS form. He also mentioned that senior workmen are still working in management while junior workers granted VRS. He also mentioned in claim statement that following workmen filled VRS form on 31.3.2004.

S.No.	Name	Designation	C.C.No.	Employee No.	Date of retirement
1.	Ranjit Singh	Charge man	282	4207	November, 2010
2.	Ramesh Thapliyal	Charge man	323	6245	January, 2013
3.	Kausal Kishor Singh	Charge man	531	6242	May 2013
4.	R.K. Sharma	Charge man	323	6246	November, 2013
5.	Gurender Singh	Charge man	241	6236	May, 2013
6.	Rishi Pal Arya	Charge man	282	4716	Jully, 2014
7.	R.R. K Masik.	Charge man	441	4903	November, 2014

Out of aforesaid workmen VRS was granted to workman Sh. Rishipal only other workmen are still in service. On the basis of aforesaid grounds workmen prayed that he be reinstated in service since date of his VRS dated 31.3.2004 because maintenance and education of children of workman is being adversely affected.

Against claim statement management filed written statement on 15.01.2009. Through which management prayed as follows:-

It is therefore humbly prayed that the claim of the applicant is wholly vexations, mischievous and untenable and as such the claim may kindly be dismissed, with exemplary cast.

My Ld. Predecessor on 29.4.2013 passed an order on order sheet as follows:-

**Present :** None for the claimant.

None for the management .

“On perusal of pleadings , it came to light that no other issue than those referred for adjudication by the appropriate Government , is made out. Case adjourned for evidence of the parties for 18.6.2013 . Claimant to conclude first.”

Sh. Rishipal Arya, on 18.6.2013 examined himself as WW1 . His statement is as follows:-

In September 2002, I was working at IDPL Veerbhadra, Rishikesh, Utrakhand as a chargeman. The management issued a circular on 20.09.2002, copy of which is Ex. WW1/1.

Further examination may be deferred. Since I want to produce voluntary retirement scheme alongwith other documents. Which are not in my possession today.

At the request of the witness, his further examination is deferred.

He was further re-examined himself on 8.10.2015. Wherein he stated as follows:-

In addition to it papers filed by me be taken into consideration as evidence.

XXXXX:- It is incorrect to suggest that after VRS to me all benefits were given. My department compensatory benefits of VRS were not given to me. Letter dated 17.09.2004 which is on record has been given by me to department . Contents of that letter are true. It is correct nothing about balance is mentioned in this letter. I am still in possession of residential accommodation provided to me by the department. It is incorrect to suggest that I have filed this case to exert pressure on department so that department may not eject me from residential accommodation unauthorizedly occupied by me. It is correct that financial condition of management was week at the time of filing of this case but now department has rescued and in better position.

It is correct that management has launched revised VRS scheme to keeping in view the financial crises of the company which is Ex. WW1/1. In my letter dated 25.3.2005 nothing is mentioned about non-payment of balance dues of VRS benefits . It is correct that it is written in letter

dated 25.3.2005 that the benefits received by me under the VRS scheme may be adjourned in my future services on monthly basis. I have not withdrawn my application for VRS pending its disposal. It is wrong to suggest that I am deposing falsely.

Then workman closed his evidence. so 25.11.2013 was fixed for management evidence.

On 25.11.2013 affidavit of MW1 Sh. Pravin Kumar Verma was filed. Which was tendered on 26.3.2014 alongwith documents Exh. MW1/1 & MW1/2. His examination –in-chief and cross-examination is as follows:-

I tender in evidence of my affidavit Ex. MW1/A which bears my signature at point 'A' and 'B'. I reply upon documents Ex. MW1/1 and Ex. MW1/2.

XXXXXX by Sh. Rishi Pal Arya, (Workman).

It is correct form of VRS was also taken from the seniors to workman. Those seniors are still working but workman has been retired on the basis of that form.

Q. Whether application for withdrawal of VRS application was given by me?

A. I have no knowledge.

Q. Whether that application was moved in 2004?

A. I do not know.

Q. Whether after VRS to workman Pension was given?

A. When workman completed 50 years of ages he was provided with the family pension.

Q. Whether teachers working in inter college of IDPL was permitted to withdraw their application moved for VRS.

A. That college was not under control of IDPL.

It is incorrect to suggest that I am deposing false to save the management from its liability.

Management also filed affidavit of MW2 Sh. Shailendra Singh, and tendered his affidavit. His examination –in-chief and cross-examination is as follows:-

I tender my evidence by way of affidavit as Exh. MW2/A which bears my signature at point A & B. I also tendered authority letter annexed with affidavit which is mark Ex. MW2/1.

XXXXXX by Sh. Rishipal Arya, (Workman)

Q. Whether circular were issued to all workman?

A. Yes.

Q. Whether partiality has been done in matter of VRS of employees?

A. No.

Q. Whether Management favoured workman Ranjit Singh, Ramesh Thapliyal, Kaushal Kr. Singh, R.P. Sharma, Gurender Singh & Ors?

A. No.

It is incorrect to suggest that I am deposing falsely in respect of aforesaid fact.

It is also incorrect to suggest that I am filed false and fabricated affidavit to shield the management from its liability.

After his tendering and cross –examination on 7.7.2015 management closed its evidence. On 7.7.2015 workman moved an application through, which he prayed for reinstatement. Copies of which supplied to management and objection was invited. Fixed 18.08.2015. On 18.08.2015 management filed reply of application by workman. Thereafter I have heard the arguments on the point of disposal of application of workman as well as disposal of I.D. Case and reserved award.

First of all disposing of application for workman for reinstatement. Application is not maintainable as it has been moved after conclusion of evidence of parties.

So it is rejected.

Now I am deciding the case on the basis of pleadings and evidence of parties. Perusal of questions of determination mentioned in schedule of reference are as follows:-

“Whether the action of the management of IDPL in accepting the application under VRS without following any principle of seniority and termination of service on VRS of workman is legal and justified? What relief the workman is entitled to?”

Out of questions of determinations. Burden of proof of question of determination no. 1 is on management but management adduced no reliable and credible evidence to prove question of determination which has been treated to be issue no. 1.

While on the other hand workman in rebuttal well proved that seniors workmen who filled BRS forms alongwith workman have been retained by management. While BRS was granted to juniors to them. In this background this Tribunal has no option except to decide question of determination treated issue No. 1 in favour of workman. In the instant case is liable to be decided in favour of workman and against management. Which is accordingly decided. But at the same time this fact cannot be ignored that workman Sh. Rishi Pal Arya has crossed the age of retirement. So no relief of reinstatement can be granted to workman.

At the same time management cannot be awarded reward for his default. So it is a fit case wherein settled law

of supreme court on the point of compensation is applicable.

In the light of contentions and counter contentions I perused the settled law of Hon'ble Supreme court on the point of reinstatement and grant of back wages. Which shows that reinstatement is not a necessary consequence wherever termination is held illegal. Depending upon the facts of each case a suitable compensation can be awarded. In Assistant Engineer, Rajasthan Dev. Corporation and Anr Vs. Gitam Singh, (2013)II LLJ 141 Hon'ble Supreme Court has held that reinstatement of workman with continuity of service and 25% back wages was not proper in the facts and circumstances of the case and the compensation of Rs.50,000/- (Rs. Fifty Thousand Only) shall meet the ends of justice. In Jagbir Singh Vs. Haryana State Agriculture Marketing Board & Anr. AIR 2009 Supreme Court 3004, Hon'ble Supreme Court held thus "the award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded." In catena of Judgments, Hon'ble Supreme Court has taken a view that reinstatement is not automatic, merely because the termination is illegal or in contravention of S-25-F of the Industrial Dispute Act. In Talwara Co-operative credit and service society Limited Vs. Sushil Kumar (2008) 9 SCC 486, Hon'ble Supreme Court held thus, "grant of relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic."

Workman of the instant case was not appointed by following due procedure and as per rules. He had rendered service with the respondent as a casual worker, thus, Compensation of Rs. 50,000/- (Rs. Fifty thousand only) by way of damages as compensation to the workman/claimant within two month by Management after expiry of period of limitation of available remedy against Award. That will meet the ends of Justice.

Thus Reference is decided in favour of workman and against Management.

Award is accordingly passed.

Dated:-11.09.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 685.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईस्ट दिल्ली म्युनिसिपल कारपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट

(संदर्भ सं. 239/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.4.2016 को प्राप्त हुआ था।

[सं. एल-42011/141/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 685.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 239/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of East Delhi Municipal Corporation and their workman, which was received by the Central Government on 08.04.2016.

[No.L-42011/141/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT NO.1, DELHI

**ID No.239/2015**

Shri Jabbar Singh, through  
The President,  
MCD General Mazdoor Union,  
Room No.95, Barack No.1/10,  
Jam Nagar House,  
Shahjahan Road,  
New Delhi 001 011

...Workman

#### Versus

The Commissioner,  
East Delhi Municipal Corporation  
Udyog Sadan, Plot No.419,  
Patparganj Industrial Area, Shahdara,  
Delhi 110 092

...Management

#### AWARD

Reference in the present case was received from the appropriate Government, viz. Ministry of Labour and employment, vide order No.L-42011/141/2015-IR(DU) dated 09.11.2015 for adjudication of the industrial dispute with following reference:

"Whether the action of the management of East Delhi Municipal Corporation In not granting the grade pay scale of Rs.1900/- to Shri Jabbar Singh with effect from 01.01.2011 as Mali is fair and legal? If



not, to what relief the workman is entitled to and from which date?"

3. On receipt of the above reference, notice was sent to the claimant as well as the management.

4. Shri B.K. Prasad, authorized representative appearing on behalf of the claimant has moved an application submitting that the dispute for grant of Rs.1900/- grade pay with effect from 01.01.2011 was raised on 21.02.2012 as the workman has been absorbed in Municipal Corporation of Delhi from Delhi Development Authority and is presently working under East Delhi Municipal Corporation. After completion of 24 years of service, he is entitled to grade pay of 4200/-, which he has been paid upto 30.06.2014 through bank attachment under Section 33 C(1) of the Industrial Disputes Act, 1947. Hence, the workman herein is satisfied and does not want to contest the present dispute.

5. Pursuant to grant of Grade Pay of Rs.4200 from 01.01.2011 to the workman herein, his claim made would stand satisfied. Hence, a no claim/dispute is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : April 5, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 686.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार म्युनिसिपल कारपोरेशन ऑफ दिल्ली (साउथ) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 72/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.4.2016 को प्राप्त हुआ था।

[सं. एल-42011/57/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 686.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 72/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Municipal Corporation of Delhi (South) and their workman, which was received by the Central Government on 08.04.2016.

[No. L-42011/57/2014-IR (DU)]

P. K. VENUGOPAL, Desk Officer

## ANNEXURE

### IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT NO.1, DELHI

ID No. 72/2014

Shri Brahm Prakash, S/o Shri Sube Singh,  
Through MCD General Mazdoor Union,  
Room No.95, Barrack No.1/10,  
Jam Nagar House,  
New Delhi

...Workman

#### Versus

The Commissioner,  
Municipal Corporation of Delhi (South),  
9th Floor, Civic Centre, Minto Road,  
New Delhi-110 002

...Management

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947 (in short the Act) was received from the Central Government, Ministry of Labour and Employment vide its orders No.L-42011/57/2014-IR(DU) dated 05.08.2014 for adjudication of the industrial dispute with the following terms:

‘Whether Shri Brahm Prakash S/o Shri Sube Ram is entitled to the status of Chaudhary in the pay scale of Rs.3050-4590 with effect from 01.01.1995 revised from time to time alongwith all consequential benefits? If so, what directions are necessary in this respect?’

2. Both the parties were put to notice and the workman Shri Brahm Prakash filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 01.01.1995 by the competent officers of Horticulture Department. He was posted in West Zone to work under Director of Horticulture. He is posted under Shri Kare Singh, SO(H), Shri Ajay Chauhan, AD(H) and Shri Kamal Singh Meena, Dy Director (Horticulture), Najafgarh Zone and is presently posted under South Delhi Municipal Corporation. However, he has been denied pay scale of Chaudhary, revised from time to time. No qualification is prescribed for promotion to the post of Garden Chaudhary. The workman has got payment of salary in the lower pay scale of mali, i.e. Rs.810-1100 revised from time to time and has been denied the scale of Chaudhary, i.e. Rs.950-1500 for his performing the duty of Chaudhary with effect from 01.01.1995. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

3. It is also averred in para 9 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis

who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon'ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order No. ADC(Hor.)/AO(Hort)/DA-VII/05/457 dated 04.03.2005 (Annexure B). There is also reference to the judgment of Division Bench of High Court of Delhi in the matter of Municipal Corporation of Delhi vs. Sultan Singh wherein also plea of the MCD regarding non-payment of wages of Chaudhary to malis who are doing working of Chaudhary, was turned down by the Hon'ble High Court in judgement dated 27.07.2011.

4. It is also averred that similar situated workmen (Mali and Chowkidar) who were performing duty of Chaudhary were granted pay scale of Chaudhary from the date when they were asked to perform duty on the higher post and management has challenged the order dated 27.07.2011 of the Labour Court in the matter of MCD vs Sultan Singh as well as before the Hon'ble Supreme Court of India by Special Leave to Appeal No.S20069/2011 and the plea by MCD all the time has been dismissed by both, before the High Court as well as the Hon'ble Supreme Court. Workman herein is also similarly situated and doing work of Chaudhary and as such entitled to same benefits.

5. Management, despite granting of four opportunities, failed to put in their appearance and hence were proceeded ex-parte on 21.01.2015.

6. The only issue which requires determination in the case in hand is whether the workman herein is entitled for grant of pay scale of Rs.950-1500 as revised from time to time alongwith consequential benefits. It is clear from statement of claim that initially the workman herein was appointed as mali on muster and later on he was regularized on the same post of mali in the pay scale of Rs.810-1100 alongwith usual allowances.

7. There is also ample evidence on record that the workman herein was performing duty as officiating Chaudhary. It is clear from perusal of document dated 26.09.2005 (List of Chaudharys working in West Region) Ex.WW1/1 that name of the workman, Shri Brahm Prakash finds mention at serial No.21 and working as Chaudhary since January, 1995. Workman, in order to prove his case, has tendered in evidence his affidavit Ex.WW1/A, wherein material averments contained in statement of claim has been reiterated. It is specifically alleged in the affidavit that he was doing work of Chaudhary/officiating Chaudhary with effect from 01.01.1995.

8. To my mind, as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the

judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un-sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

9. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court vide IA No.2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary.

10. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/

acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

“The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the

authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

11. In view of the discussions made herein above, it is held that the workman is entitled to the pay scale of Garden Chaudhary with effect from January, 1995 and as a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary till date. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : April 5, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2016

**का.आ. 687.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन एण्ड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 184/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.4.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th April, 2016

**S.O. 687.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 184/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Delhi Metro Rail Corporation and Others and their workman, which was received by the Central Government on 08.04.2016.

[No. L-42025/03/2016-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT NO. 1, DELHI**

**ID No. 184/2012**

Shri Sohan Lal, S/o Shri Ram Niwas,  
through Delhi General Udyog Karamchari  
Sangh (Regd.) Bharatiya Mazdoor Sangh,  
5239, Ajmeri Gate, Delhi-110 006

.....Workman

**Versus**

1. The Manager,  
Delhi Metro Rail Corporation  
Kashmeri Gate,  
Delhi-110 006
2. M/s. All Services Under One Roof (I) Pvt. Ltd.  
690/91 West Guru Angad Nagar, Delhi

.....Management

**AWARD**

Brief facts giving rise to the present petition are that Shri Sohan Lal, workman herein, was engaged by Management No.2 as daily wager with effect from 04.07.2008 at Metro Station Kashmeri Gate, Delhi. He was being paid salary of Rs.4500.00 being minimum wages and the workman was performing his duties diligently. He was deprived by the management of all the benefits such as letter of appointment, casual leave, minimum wages, overtime etc. by the management. Management was informed number of times regarding this but to no avail. Later on, the services of the workman was terminated without any rhyme or reason on 21.1.2011 by Management No.2. Officials of the management were getting signatures of most of the workers on blank papers and they were always threatening to expel the workmen from the job despite the fact that the workman herein was performing his duties sincerely.

2. Later on the workman sent demand notice on 10.07.2012 which was never reply by the management. Later on matter was taken through the union to the Conciliation Officer. However, no action was taken against within 45 days by the Assistant Labour Commissioner also, as such, the workman herein filed his claim directly under sub-section (2) of Section 2 of the Industrial Disputes Act, 1947(in short the Act). Prayer has been made by the workman for declaring order dated 21.01.2011 to be illegal, null and void and to direct reinstatement of the workman alongwith all consequential benefits.

3. Managements were put to notice and both the managements filed separate reply to the statement of claim.

Management No.1 in its reply took preliminary objection that the workman herein was never employed by them and there was no relationship of employee and employer between him and the management. Moreover, workman does not fall within the definition of 'workman' as defined under section 2(s) of the Act and there exists no dispute nor this Tribunal has jurisdiction to try the present matter. On merits, Management No.1 has denied most of the averments contained in the statement of claim. Stand of Management No.1 is very specific that the workman was never in the employment of Management No.1 and his services were in fact were terminated by Management No.2.

4. Management No.2, in its reply also took preliminary objections of malafide, misconceived, claim being illegal and the present claim is nothing but an abuse of process of law. On merits, it is denied that the workman herein was a skilled employee and was working since 11.07.2008 and honestly. It is further denied that the workman herein was getting salary below minimum wages. Management No.2 also denied that the workman herein was not given benefits of labour laws, including casual leave etc. Management also denied that services of the workman were terminated illegally or without any reason etc. The workman herein, most of the time was found smoking beedis in the metro premises, which is strictly prohibited. He was warned on several occasions, however, he continued to repeat these acts despite warnings by the Management. In January, 2011, he committed theft of some machinery, which was reported to PS Kashmeri Gate. Thereafter, he fled and never reported back for the job. Management denied the averments contained in the remaining paras.

6. Against this factual background, my learned predecessor on the basis of pleadings of the parties, vide order dated 17.07.2013 framed the following issues:

- (i) Whether services of the claimant was dispensed with by M/s All Services under One Roof Pvt. Ltd.?
- (ii) Whether claimant abandoned services of M/s All Services under One Roof Pvt. Ltd., as claimed in the written statement?
- (iii) Whether claimant is entitled to relief of reinstatement in services of M/s All Services under One Roof Pvt. Ltd.?
- (iv) As in terms of reference

7. Both the parties adduced evidence in support of the stand taken in the respective pleadings. The workman examined himself as WW1 and the management examined Shri Rahul Singh as MW1 and tendered certain documents. I would be discussing the same in the subsequent paras while drawing my conclusions.



**Findings on Issue Nos.1 and 2**

8. Both these issues are being taken up together for the purpose of discussion as well as adjudication as they are interconnected and can be conveniently disposed of.

9. Workman in order to prove his case against the management has tendered in evidence his affidavit, Ex.WW1/A which is on similar lines as the averments contained in the statement of claim. It is alleged in para 2 of the affidavit that management No.1 engaged services of Management No.2 under Contract Labour Act, 1970 and Management No.1 being the principal employer was responsible to ensure payment of wages well in time as well as grant of all labour benefits which are available to the workmen under the Industrial labour laws. Workman was not given wages for January 2011 despite several demands made by him. Resultantly workman was verbally terminated on 21.01.2011 without any rhyme or reason. Workman herein does not have any source of income and has tried his level best to get some job. There is hardly any cross-examination of the workman herein on any material point. Workman has tendered in evidence documents Ex.WW1/1 to Ex.WW1/8. It is clear from perusal of pay slip Ex.WW1/1 that services of the workman herein were being taken by management No.2 at Kashmeri Gate Metro Station, at a monthly wages of Rs.4500.00. Letter No.Ex.WW1/2 is demand letter regarding claim of wages by the workman from Delhi Metro Rail Corporation Management No.1. Receipt of letter is Ex.WW1/3 and acknowledgement is Ex.WW1/5, It shows that copy of the letter was sent to Management No.2 and copy of Identity Card is Ex.WW1/6. Claim filed by the workman through the Union is Ex.WW1/7 which also shows that the workman herein has specifically averred that his services were terminated on 21.01.2011.

10. It is not out of place to mention here that when matter was listed for hearing on 07.03.2014, an offer was made by the management of All Services Under One Roof to take the claimant back on duty in Delhi. Thereafter, as per statement of claim, he went to report for duty on 12.03.2014 and also thereafter, but he was not allowed to resume his duties. Rather he was asked by no one to join duty as per order of this Tribunal. Letter Ex.WW1/M2 was addressed to the workman herein by Management No.2 which shows that the workman did not report for duty on 08.03.2014 and management waited till 5 p.m. for the workman herein so as to enable him to join duty. There is also mention in letter Ex.WW1/M2 that the workman does not appear to be interested in resuming duties.

11. Management, in order to rebut the case of the claimant re-examined Shri Rahul Singh, Operation staff of Management No.2 All Services Under One Roof as MW1 and his affidavit is Ex.MW1/A. It is clear from averments made in para 2 of the said affidavit that Shri Sohan Lal was working with Management No.2 in the year 2009 as safai

karamchhari. However, his conduct was not found to be good. He was a habitual beedi smoker and was warned several times by the management. It was in the month of January 2011 he suddenly stopped coming to work and thereafter he never turned up. Thus, he has abandoned his service on his own. Management of All Services Under One Roof is engaged in the business of providing maintenance staff and personnel to different establishments on contract basis and employees who are engaged by the said company do not have permanent jobs or fixed place of working. It is clear from the cross examination of Shri Rahul Singh, MW1 that he joined duty in 2000 and at that time there were around 500 employees in the company. ESI and PF deductions were also made from the wages of the employees. No notice was issued to the workman herein because his services were never terminated. He further admitted that no notice regarding his conduct was issued to the workman herein. He made another vital admission that the claimant approached the management as per orders of the Court. Therefore there is no merit in the contention of the management that the workmen never reported for duty as per order of this Court on 08.03.2014. This witness tried to explain that in fact the workman came late on that day for joining duty at 11 a.m. and thereafter he left the premises after about half an hour. If this fact is taken to be correct, then by no stretch of reasoning coming to office at 11 a.m. for the purpose of reporting for duty cannot be considered to be so late. He has admitted that Management No.2 was awarded contract by DMRC in 2009 and there was written agreement with DMRC regarding this. He was not in a position to produce copy of the said agreement. There were as many as 50 workers at the relevant time. He further admitted that attendance record of the workman was maintained by management No.2. However, despite orders by this court no such record has been produced by management No.2 so as to show the period of engagement/duty of the workman herein. In such a situation, this Tribunal is bound to draw adverse inference against the Management and there is no evidence to the contrary that the workman herein has not worked for more 240 days or more in a calendar year. There is also no merit in the stand of the management of the workman herein has voluntarily abandoned service. No notice whatsoever was admittedly served upon the workman regarding his voluntary abandonment or commission of theft, including smoking of beedis during office hours. They are merely averments made in the pleadings and affidavit of the management without any further evidence to substantiate the same.

12. During the course of arguments, reliance was placed on behalf of the workman in the case of Jasmeer Singh vs. State of Haryana in SLP (C) No.1532 of 2014, decided on 13.01.2015 wherein the Hon'ble Apex Court has observed that when a workman was working on daily wages for a considerable period and has also completed 240 days in a calendar year, in that eventuality services of

such workman cannot be dispensed with in an arbitrary manner as the same would amount to gross violation of provisions of Section 25F of the Act. In the said case, Industrial Tribunal has set aside the order of termination, which was set aside by the High Court. However, the Apex court maintained the order of the Industrial Tribunal by setting aside the judgement of High Court by observing that removal or termination of service of the employee in violation of principles of the Act cannot be justified under the law. Situation in the case in hand is in no way different inasmuch as it is admitted case of the parties that the workman herein was in the employment of Management No.2 since 2008-09 and his services were admittedly terminated without issuing any show cause notice on one month pay in lieu thereof, as required under section 25 F of the Act. Since evidence regarding abandonment of service, as discussed above, is lacking, both in quality as well as content, as such it is held that the services of the workman were terminated without following due procedure. Both these issues are decided in favour of the workman and against the management.

### Findings on Issue No.3

13. Now, the only residual question which survives for consideration is whether the workman is entitled to relief of reinstatement in service of Management No.2. Admittedly, workman herein was working at Kashmeri Gate Metro Station in the service of Management No.2, which fact is otherwise established from salary slip, E.WW1/1. In the case in hand, contractor has not been examined by the managements so as to prove the terms and conditions of the contract nor has the management taken care to file copy of the agreement which was entered into between DMRC and Management No.2. It is not out of place to mention here that under the Contract Labour Act, 1970, Section 29 spells the Registers and other records to be maintained as under

(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

14. It is apposite to mention here that the workman herein, Shri Sohan Lal, has admitted in his cross examination dated 31.03.2014 that for the last three months he is serving M/s Godavari Firms at Laxmi Nagar Metro Station and is getting a salary of Rs.6000.00 per month. However, he has specifically denied the suggestion that

he was still working with M/s Godavari Firms and it was on account of this reason that he did not respond to the management to report on 08.03.2014. It has already come in evidence of Shri Rahul Singh, MW1 that the workman came late for joining duty on 08.03.2014 at 11 a.m. and he left the premises after half an hour without information. This witness also admitted that it is difficult to state whether the workman at present is employed or not. This witness, further, feigned ignorance as to whether on 13.03.2014, M/s Godavari Firms terminated services of the workman herein on the instructions of M/s All Services Under One Roof (I) Pvt. Ltd. Further, if the workman was really in the employment of M/s Godavari Firms till the last, then it was not difficult for the management to bring cogent and reliable evidence on record so as to prove that the workman herein as really in employment.

15. Hon'ble Apex Court in the case of Bhuvnesh Kumar Dwivedi Vs. Hindalco Industries Ltd. (2014) 11 SCC 85 dealt with the question of termination of services of a daily wager who has rendered service for six years and it was held that when the workman has stated that he was out of employment, onus to prove that the workman was in service would shift upon the employer.

16. In the case in hand, it has come in evidence of the workman herein, Shri Sohan Lal, WW1 that he was working for the last three months, as such he is not entitled for salary/wages for the period from 01.01.2014 to 31.03.2014. Since services of the workman herein has been terminated without following any procedure, inasmuch as no notice was served upon the workman before ordering his termination/retrenchment, nor any retrenchment compensation was paid to the workman as required under the Act, as such, it is held that the workman herein is entitled for back wages from the date of termination, except for the period from 01.01.2014 to 30.03.2014. Workman herein, Shri Sohan Lal, is also entitled to be reinstated as work of daily wagers is still available with the management so as to employ him immediately. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : March 28, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 688.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजय मोहिनि मिल्स, केरल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 02/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.4.2016 को प्राप्त हुआ था।

[सं. एल-42012/90/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th April, 2016

**S.O. 688.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 02/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vijayamohini Mills, Kerla and their workman, which was received by the Central Government on 12.04.2016.

[No.L-42012/90/2012-IR (DU)]

P. K. VENUGOPAL, Desk Officer

# **ANNEXURE**

## **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present : Shri. K. Sasidharan, B.Sc., LLB, Presiding Officer  
(Thursday the 31<sup>st</sup> day of March, 2016/11<sup>th</sup> Chaitra, 1937)

### **ID 2/2013**

- |            |  |
|------------|--|
| Unions     | : 1. The Secretary, Vijayamohini Mill Employees Union (INTUC), Vijayamohini Mills, Thirumala (PO), Trivandrum – 695006.          |
|            | 2. The Secretary, Trivandrum Textile Workers Union (CITU), Vijayamohini Mills, Thirumala, P.O. Trivandrum – 695006.              |
|            | By Adv. Smt. Anila Peter   |
|            | 3. The Secretary, Thiruvananthapuram Cotton Mill Workers Union (AITUC), Vijayamohini Mills, Thirumala, P.O. Trivandrum – 695006. |
|            | 4. The Secretary, Thiruvananthapuram Jilla Textile Mazdoor Sangh (BMS), Vijayamohini Mills, Thirumala, P.O. Trivandrum – 695006  |
| Management | : The General Manager, Vijayamohini Mills, Thirumala P.O. Kerala - 695006  |
|            | By Adv. Shri Ajith S. Nair   |

2. This case coming up for final hearing on 28.03.2016 and this Tribunal-cum-Labour Court on 31.03.2016 passed the following:

### **AWARD**

This is a matter referred by the Central Government under clause (d) of sub-section(1) and sub-section (2A) of

Section 10 of the Industrial Disputes Act, 1947 (14 of 1947).

#### 2. The dispute referred for adjudication is:

‘Whether the action of the management of M/s Vijayamohini Mills, Thirumala, Trivandrum in unilaterally fixing the wages of the newly regularized Gate Badli/Casual workers as 80% and 90% of the category wages as applicable to the lowest grade workers in the Spinning section during the first six months and subsequent six months of probation respectively and also to reckon only Basic Pay and Dearness Allowance for the purpose of calculation of category wages contrary to the previous practice of taking into account of all the other components of wages viz., HRA, LTC and Attendance Incentive is justified? If not, to what relief these workman are entitled?

3. After receipt of the reference order No.L-42012/90/2012-IR(DU) dated 04.12.2012, issued by the Ministry of Labour, Government of India, summons was issued to the union and the management to appear and answer all material aspects relating to the dispute and produce documents to substantiate their respective contentions.

4. The contentions in the claim statement filed by the union Nos.1 & 2, in brief are as follows:-

As a result of modernization more workers have to be absorbed in the management establishment. The strength of the employees was fixed at 245. Since permanent workers were not available a scheme was prepared so as to absorb permanent workers from among badly workers. Originally the practice followed by the management was as and when the badly workers were absorbed they were paid the same wages as that of the permanent workers. Subsequently the management changed that practice unilaterally and followed the new practice – that during the first six months of the probation period, the badly workers will be paid 80% of the category wages (Basic of spinning doffing boy and DA) and during the next six months 90% of the category wages (Basic of spinning doffing boy and DA). The management reserved the right to terminate the services of the absorbed workers without any notice or pay in lieu of notice at any time without assigning any reason.

5. The decision of the management was in violation of the terms and conditions in the long term settlement dated 17.09.2011 entered into between the management and the workers. The settlement dated 17.09.2011 is a conciliation settlement as provided under Section 12(3) of the Industrial Disputes Act and it is followed and binding on both parties.

6. The workers were repeatedly requesting the management to restore the earlier practice followed as per the earlier settlement. The management is not ready and willing to accept the request of the workmen. Therefore the union Nos.1 & 2 have requested to restore the earlier practice of paying the same salary for the regularized workmen at par with the permanent workmen with retrospective effect. They have also requested to disburse the monetary benefits on restoring the previous practice.

7. Union Nos.(3) and (4) remained exparte.

8. The contentions in the written statement filed by the management in brief are as follows:

The management in this case viz., M/s.Vijayamohini Mills is a unit of National Textiles Corporation. All the policy matters relating to the Mill are taken by the National Textiles Corporation, most specifically by the Regional Office at Coimbatore. The decisions taken by the Regional Office is applicable to all the mills under the National Textiles Corporation.

9. The National Textiles Corporation introduced modernization scheme and the mill was modernized. Accordingly new arrangements were made for improving the production. The service conditions of the employees were changed as a result of the modernization.

10. On 29.09.2011 a memorandum of settlement was entered into between the management and the trade unions covering all matters relating to the demands made by the unions. As per the terms and conditions in the memorandum of settlement all the parties agreed that the regularization of gate badalis/casuals shall be as per the terms and conditions of the regularization scheme formulated by the National Textiles Corporation, Southern Regional Office at Coimbatore. The Regional Office formulated a scheme in accordance with the stipulations in the settlement and regularization is done as per the scheme. The scheme is formulated in accordance with the terms and conditions in the conciliation statement and it is followed and binding on the unions in view of the provisions of the Industrial Disputes Act.

11. During the subsistence of the settlement the unions raised several demands which are covered by the settlement. In the midst of conciliation before the Conciliation Officer the unions demanded regularization of gate badalis/casual workers in accordance with their demands. The dispute could not be resolved since the claim by the union was against the terms and conditions in the scheme formulated in accordance with the stipulations in the conciliation settlement. There is no illegality in the action on the part of the management. There is no legal basis for the demands made by the unions. The regularization is done on probation for one year and during the first six months of probation, salary is fixed at

80% of the category wages and 90% for the next six months. On completion of probation they will be considered in the category of wages itself. This was done in accordance with the scheme prevailing in the Mill. The management has not made any unilateral decision against the terms and conditions of the settlement arrived between the parties. The management has implemented the scheme formulated in accordance with the terms and conditions in the settlement which was agreed between the parties, the union has no right to challenge the same. The management has not violated any other provisions of the long term settlement. The contention of the union that the management reused to follow the earlier practice of paying the same salary, is denied. There was no such earlier practice followed by the management. The settlement and scheme formulated thereof are followed and binding on the parties, including the trade union.

12. The management has requested to uphold the contentions and disallow the claim of the union.

13. After filing the written statement by the management, union No.2 filed rejoinder reiterating the contentions in the claim statement. They have stated that the dispute involved in this case will come under the purview of Section 2(k) of the Industrial Disputes Act.

14. After affording sufficient opportunities to the parties to take steps and produce documents to substantiate their contentions, the matter was posted for evidence.

15. On behalf of the union Nos.1 & 2 WW1 was examined and Exts.W1 to W8 are the documents marked. On behalf of the management no oral evidence has been adduced and no documents were marked. Heard both side.

16. The points arising for consideration are:

- “(i) Whether there was any unilateral action on the part of the management of M/s.Vijayamohini Mills, Thirumala, Thiruvananthapuram in fixing the wages of newly regularized gate badly/casual workers at 80% and 90% respectively of the category wages during the first six months and next six months of probation?
- (ii) Whether the reckoning of basic pay and Dearness Allowance for the purpose of calculating the category wages was contrary to the previous practice of including all other components like HRA, LTC and attendance incentive?
- (iii) Whether the management has violated the terms and conditions of the settlement and the scheme formulated thereof?



(iv) To what relief the unions are entitled?"

**17. Point Nos.(i) to (iii):-**The dispute referred for adjudication before this Tribunal is:

"Whether the action of the management of M/s. Vijayamohini Mills, Thirumala, Trivandrum in unilaterally fixing the wages of the newly regularized Gate Badli/Casual workers as 80% and 90% of the category wages as applicable to the lowest grade workers in the Spinning section during the first six months and subsequent six months of probation respectively and also to reckon only Basic Pay and Dearness Allowance for the purpose of calculation of category wages contrary to the previous practice of taking into account of all the other components of wages viz., HRA, LTC and Attendance Incentive is justified? If not, to what relief these workman are entitled?"

In the claim statement union Nos.1 and 2 have stated that as a result of modernization more workers have to be absorbed in the management establishment. The strength of the permanent employees in the management establishment was 245. Union Nos.1 and 2 have stated that the strength of permanent workers required for working the management establishment was not available and as such permanent workers were absorbed from among the badli workers, for which a scheme was prepared. The grievance of the union Nos.1 & 2 is that originally the practice followed by the management was to pay the same wages as that of permanent workers to the workers absorbed from among the badli workers. It is stated that at a later stage the management unilaterally changed this practice and they adopted a different method viz., during the first six months of probation period the badli workers will be paid 80% of the category wages (Basic of spinning doffing boy and DA) and for the next six months 90% of the category wages. It is stated that the management reserved the right to terminate the services without any notice or pay in lieu of notice at any time without assigning any reason. According to the union, as per the terms and conditions in the settlement dated 17.09.2011, they are entitled to restoration of the wages to the badli workers absorbed to the permanent vacancy. The union Nos.1 & 2 have stated that the management is not accepting their demand. They have requested to restore the earlier practice of paying the same salary for the regularized workmen from among the badli workers during the initial probation period of one year.

18. The management has contended that the policy matters relating to the Mill are taken at the Regional Office of the National Textiles Corporation, Coimbatore. It is stated that the management Mill was a sick unit. Subsequently the National Textiles Corporation introduced modernization scheme and new arrangements were made

for improving the production. Accordingly the service conditions of the employees were changed. They have mentioned about the settlement dated 29.09.2011 between the management and union. It is stated that as per the terms and conditions of settlement the parties agreed that the regularization of gate badlis/casual workers shall be in accordance with the scheme formulated by the Southern Regional Office of National Textiles Corporation at Coimbatore. It is stated that the Regional Office formulated the scheme and as per the conditions of settlement the regularization is done. According to the management the scheme formulated in accordance with the terms of settlement dated 29.09.2011 is followed and it is binding on the parties. The management has further stated that when regularization of badli workers was done, they will be on probation for one year and out of which during the first six months their salary is fixed at 80% of the category wages and at 90% for the next six months. On completion of probation the workers will be confirmed in the category wages. According to the management the practice followed by them is in accordance with the scheme prevailing in the Mill.

19. It is stated that there was no irregularity or illegality on the part of the management in implementing the scheme which was formulated in accordance with the terms and conditions in the settlement dated 29.09.2011.

20. While examined as WW1 the Secretary of union No.2 has stated about the violation of the terms and conditions of the settlement by the management. During cross examination WW1 has stated that the management has violated the settlement dated 17.09.2011. He has admitted that Exts.W1 and W2 are the long term settlements between the management and the unions. He has stated that as per the clause 26 of Ext.W2 settlement the union have agreed and accepted the terms and conditions relating to the gate badlis/casual workers. WW1 has stated that the management has formulated Exts.W4 and W6 schemes in accordance with the stipulations in Ext.W2 settlement. WW1 has admitted that the management regularized the salary of gate badlis as per the scheme. According to WW1 the dispute is relating to the stipulations in the scheme formulated by the management. He has stated that the long term settlement entered into between the unions and management is even now in force and the tenure of the long term settlement has not been completed so far. He has stated that in the long term settlement it was agreed by the union that they will not raise any further demands during the subsistence of the settlement. According to WW1 the dispute is that the management violated the terms and conditions of the settlement dated 17.09.2011.

21. Ext.W1 is the settlement dated 17.09.2011 entered into between the unions and the management. Clause 26 of Ext.W1 reads as follows:

*"The unit wise settlement under section 12(3) of ID Act should be signed by the unit mills before the*

*Regional Labour Commissioner(Central), incorporating the revised agreed workload and terms of this settlement before 30<sup>th</sup> September 2011 in respect of Vijayamohini Mills, Trivandrum, Alagappa Textile Mill, Thrissur, Kerala Lakshmi Mills, Thrissur. In the case of the Cannanore Spinning and Weaving Mills, Cannanore it should be signed as per the terms of the settlement dated 27.08.2011”.*

22. Ext.W4 is the scheme formulated by the management for regularization of casual badlis. The contention of the management is that Ext.W4 scheme was formulated in accordance with the terms and conditions in Ext.W1 settlement. Ext.W7 is copy of the minutes of joint discussion before the Regional Labour Commissioner(Central), Cochin entered into between the unions and the management. As per the decision the parties agreed as follows:

*“Clause 3 of that decision of the conciliation reads as follows:*

*It is agreed by the management to extend category basic wages for those workers who were regularized and getting 80% and 90% of category basic wages as on date for all mills in Kerala and Mahe as one time measure. For workers who will be regularized hereafter wages will be fixed as per the existing scheme referred in clause 26 of the settlement dated 18.07.2011 (Mahe) and 17.09.2011 for remaining four mills”.*

23. The learned counsel for the union Nos.1 & 2 submitted that the management has not restored the earlier practice of paying the entire wages to the gate badlis who are absorbed in the regular vacancies. While examined as WW1 the Secretary of union No.2 has stated that Ext.W7 Settlement came into existence during the pendency of this case. Representatives of all the unions are parties to Ext.W7 Settlement. The challenge of the union is against Ext.W4 scheme. Ext.W7 document reveals that all the unions have agreed to the settlement relating to wages of gate badlis who were regularized thereafter and that wages will be fixed as per the existing scheme referred in clause 26 of the settlement. Therefore it is evident that the unions have in principle agreed and accepted the terms and conditions in the scheme formulated by the management as per Ext.W4. It follows that the claim of the unions for additional benefits of newly regularized gate badlis/casual workers at 80% and 90% respectively for the first six months and subsequent six months of probation is not sustainable. Even otherwise, in view of Ext.W1 the unions have admitted that they will follow the scheme formulated by the management in this regard. In such circumstance the claim of the unions is not sustainable in law. Therefore,

the points for consideration are answered against the union and in favour of the management.

**24. Point No.(iv):—**In view of the finding on point Nos.(i) to (iii) the unions are not entitled to the relief claimed in this reference. The point is answered accordingly.

25. In the result an award is passed holding that the unions are not entitled to the relief claimed as per the dispute involved in this reference.

The award will come into force one month after of its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 31<sup>st</sup> day of March, 2016.

SASIDHARAN K., Presiding Officer

#### APPENDIX

##### Witnesses for the unions

WW1 04.12.2015 Shri A. K. Divakaran

##### Witnesses for the management

NIL

##### Exhibits for the unions

- W1 - Copy of the memorandum of settlement dated 17.09.2011 in respect of wage revision arrived at under Section 12(3) of the Industrial Disputes Act 1947, before the Regional Labour Commissioner(Central), Cochin between the management of National Textile Corporation Limited, Coimbatore and their workers in the unit mills in Kerala represented by their State wide federation level leaders of each union.
- W2 - Copy of memorandum of settlement arrived at under Section 12(3) of the Industrial Disputes Act, 1947 on 29.09.2011 before the Regional Labour Commissioner (Central), Cochin between the management of Vijayamohini Mills and their workmen represented by the unions in respect of revised work load and other benefits.
- W3 - Copy of the minutes of the discussion dated 29.12.2011 held on the joint representations submitted by the three unions of Vijayamohini Mills, Trivandrum with the management and the unions of Vijayamohini Mills.
- W4 - Copy of the scheme for regularization of casuals in mills.
- W5 - Copy of the joint representation dated 02.01.2012 addressed to the Regional Labour Commissioner (Central), Kendriya Shramasadan, Olimugal, Kakkanad, Kochi – 682030 by the Secretaries of Vijayamohini Mill Employees Union (INTUC), Trivandrum Textile Workers Union (CITU) and Thiruvananthapuram Textile Mazdoor Sangh (BMS).

W6 - Copy of the letter No.NTC/PERS/2012-01 dated 27.01.2012 addressed to Shri. K. I. Abdul Jaleel, General Manager, Vijayamohini Mills, Trivandrum by the Senior Manager (HR) – HOD, National Textile Corporation Limited, Southern Regional Office, Coimbatore.

W7 - Copy of the minutes of joint discussion/conciliation proceedings held on 27.01.2014 before the Regional Labour Commissioner (Central), Cochin over the dispute between the management of M/s.NTC Ltd. Textile Mills in Kerala & their workmen represented by their unions.

W8 - Salary bill in respect of Shri.Sunil Kumar. A, No.243, Doffing Boy for the month of November, 2012 in Vijayamohini Mills, Thiruvananthapuram.

#### **Exhibits for the management**

NIL

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 689.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विओम नेटवर्क्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 36/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.4.2016 को प्राप्त हुआ था।

[सं. एल-42012/142/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th April, 2016

**S.O. 689.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 36/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Viom Networking Limited and their workmen, which was received by the Central Government on 12.04.2016.

[No. L-42012/142/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

#### **Present:**

Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Thursday the 31st day of March, 2016/  
11th Chaitra, 1937)

#### **ID 36/2015**

Workman : Shri. Shyamlal P.S.,  
Parinappilly House,  
Makayiram, Thuravoor P.O.,  
Cherthala, Kerala-688524

Managements : 1. The Circle Head,  
Viom Networks Ltd.,  
J & Co. Chamber,  
Manimala Road,  
Edappally,  
Cochin – 682024  
2. The Vice Chairman,  
Viom Networks Ltd.,  
Southern Park,  
Sachet Palace, Saket,  
New Delhi - 110017

By M/s. Menon & Pai

This case coming up for final hearing on 31.03.2016 and this Tribunal-cum-Labour Court on the same day passed the following:

#### **AWARD**

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute is:

‘Whether the action of the management of VIOM Networks Ltd. In terminating the services of Shri Shyamlal P. S., is justified? If not to what relief he is entitled to?’

3. After receipt of the reference order No.L-42012/142/2015-IR(DU) dated 04.08.2015, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit their pleadings and produce documents to substantiate their respective contentions.

4. Summons was served on the workman and management Nos.1 and 2. Management Nos.1 and 2 entered appearance through counsel. Even after the service of summons and granting repeated adjournments, the workman remained absent. Hence he was set ex-parte.

5. Heard counsel for management Nos.1 and 2.

6. The workman at whose instance this dispute was referred for adjudication, remained absent after the receipt of summons. There was no representation on his behalf. Therefore it is evident that he has no interest in proceeding with the Industrial Dispute initiated at his instance.

7. In the result an award is passed holding that there is no subsisting Industrial Dispute to be adjudicated as per this reference.

The award will come into force one month from the date of its publication in the Official Gazette.

Pronounced by me in the open Court on this the 31st day of March, 2016.

SASIDHARAN K., Presiding Officer

#### APPENDIX - NIL

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 690.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 15/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.4.2016 को प्राप्त हुआ था।

[सं. एल-40011/16/2009-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th April, 2016

**S.O. 690.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Ref. No. 15/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 12.04.2016.

[No. L-40011/16/2009-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

#### PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

#### REFERENCE NO. 15 OF 2012

**PARTIES :** Shri Dinesh Kumar,  
S/o Shri Chandradeep Prasad  
Village: Chandwapur, PO: Dhergawan,  
PS. Kako, Distt : Jehanabad,  
Bihar

**Vs.**

The Principal General Manager /  
Chief Gen. Manager/  
General Manager  
Bharat Sanchar Nigam Ltd.,  
Bihar Circle, Patna.

Ministry's Order No L-40011/16/2009-  
IR(DU) dt 1.2.2012

#### APPEARANCES :

On behalf of the : Mr. B. B. Pandey, Ld. Adv.  
workman/Union

On behalf of the : Mr. S. Prasad, Ld. Adv.  
Management

State : Bihar

Industry : Telecom.

Dated, Dhanbad, the 1st March, 2016

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40011/16/2009-IR (DU) dt 1.2.2012.

#### SCHEDULE

“Whether the action of the Management of Principal General Manager/General Manager, BSNL, Patna in terminating the services of Shri Dinesh Kumar w.e.f. 01.05.2004 is legal and justified? What relief the workman is entitled to?

On receipt of the Order No. L-40011/16/2009-IR (DU) dt 1.2.2012 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 15 of 2012 was registered on 13.02.2012 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Petitioner and the O.P./Management through their own Ld. Counsels appeared and contested the case.

2. Short point to be decided in this reference is, whether the workman, completed 240 days in the BSNL, so that he will be regularized as a regular employee. The case of the workman is he was rendering service to BSNL since so many years but the Management, without regularising, allowed him to sit and virtually retrenched him.

The workman in support of his claim filed testimonials of SDE, Telecom that he rendered services more than 240 days in a calendar year. The workman while examined as witness says that similarly engaged other eight workmen have been regularized as casual employee barring the present workman. The workman while examined, he was cross-examined by the Management. Management has not suggested to the workman, that he was never engaged by the BSNL nor the testimonials were



in genuine. This being the situation, the workman be taken as casual employee of the Management.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 691.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेलकिन टेलीकॉम इंफ्रा प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 73/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.4.2016 को प्राप्त हुआ था।

[सं. एल-40011/09/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th April, 2016

**S.O. 691.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Ref. No. 73/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Welkin Telecom Infra Private Limited and their workmen, which was received by the Central Government on 12.04.2016.

[No. L-40011/09/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 73 of 2015

#### Parties:

Employers in relation to the management of  
M/s. Welkin Telecom Infra Pvt. Ltd.

AND

Their workmen.

#### Present:

Justice Dipak Saha Ray, Presiding Officer

#### Appearance:

On behalf of the : Mr. Suchindram Bhattacharjee,  
Management Ld. Counsel for M/s. Welkin  
Telecom Infra Pvt. Ltd.

Mr. Basabjit Banerjee, Ld.  
Counsel for M/s. Indus Towers  
Ltd.

On behalf of the : Mr. Partha Mukherjee, Ld.  
Workman & Union Counsel.

State: West Bengal Industry: Telecommunication

Dated: 7th April, 2016

#### AWARD

By Order No.L-40011/09/2015-IR(DU) dated 05.05.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s Welkin Telecom Infra Pvt. Ltd., contractor of M/s Indus Towers Limited is justified by terminating the service of Sri Ramkrishna Pal and is it legal and/or justified? If not, what relief the workmen are entitled to?”

2. When the case is taken up today for hearing, all the parties are represented by their respective Ld. Counsel. The Ld. Counsel for the concerned workman and the union submits that one reference being Reference No. 23 of 2015 was initiated on the self same dispute among the self same parties and the said reference has already been disposed of by passing an Award in terms of memorandum of settlement signed by the parties. So, neither the concerned workman nor the union, wants to proceed with this reference further.

3. Considering the above facts and circumstances and since the workman and the union at whose instance the instant reference has been initiated do not want to proceed with the case, I do not find any reason to proceed with the matter further.

4. Accordingly, the instant reference is disposed of by passing a “No Dispute Award”.

Dated, Kolkata,

The 7th April, 2016

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 692.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओएनजीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 160/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.04.2016 को प्राप्त हुआ था।

[सं. एल-30012/38/1998-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th April, 2016

**S.O. 692.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 160/2004) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of M/s. ONGC and their workmen, received by the Central Government on 13.04.2016.

[No.L-30012/38/1998-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 3rd February, 2016

**Reference: (CGITA) No. 160/2004**

**Reference : (ITC) No. 46/1999**

1. The Group General Manager (P),  
ONGC Ltd.,  
Ahmedabad ...First Party

**Vs.**

Their Workmen  
through the secretary,  
Gujarat Petroleum Employees Union,  
Ahmedabad-380001 ...Second Party

For the First Party : Sh. K.V. Gadhia, Advocate

For the Second Party : Kum Santoshben, Advocate

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 30012/38/98-IR(C-I) dated 10.02.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### SCHEDULE

“Whether the demand of Gujarat Petroleum Employees Union, Ahmedabad treating Shri N.K. Rajan and seven others (as per list attached) in direct employment of ONGC as Fireman and Driver w.e.f. from their date of joining are just and legal? If so, their termination w.e.f. 14.6.97 are legal and justified and to what relief they are entitled to?”

2. This reference dates back to 10.02.1999. Learned counsels for the parties filed their vakalatnama. Second party submitted the statement of claim (Ext.5) on 25.08.1999 and first party submitted written statement (Ext.24) on 25.07.2000. It is unfortunate that the second party has not been responding since last several years to adduce the evidence despite giving dozens of opportunities to them. Thus, it appears that both parties are not interested in the proceedings of the reference. Therefore, Tribunal has no

option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 अप्रैल, 2016

**का.आ. 693.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओएनजीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 168/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.04.2016 को प्राप्त हुआ था।

[सं. एल-30012/123/1998-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th April, 2016

**S.O. 693.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 168/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of M/s. ONGC and their workmen, received by the Central Government on 13.04.2016.

[No.L-30012/123/1998-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 3rd February, 2016

**Reference: (CGITA) No. 168/2004**

**Reference : (ITC) No. 63/1999**

1. The Group General Manager (P),  
ONGC Ltd.,  
Chandkheda,  
Ahmedabad ...First Party

**Vs.**

Their Workman  
Shri Dineshbhai S. Senva  
Through the secretary,  
Gujarat Petroleum Employees Union,  
Ahmedabad-380001 ...Second Party

For the First Party : Sh. K.V. Gadhia, Advocate  
For the Second Party : Kum Santoshben, Advocate

### **AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 30012/123/98-IR(C-I) dated 17.02.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### **SCHEDULE**

“Whether the demand of Employees Union regarding contract worker Dinesh Somabhai Senva be treated as direct worker of ONGC is legal and justified? If yes, then from which date and to what relief is he entitled?”

2. This reference dates back to 17.02.1991. Both the parties were served. Second party submitted Statement of claim (Ext.5) on 09.12.1999 and first party also filed vakalatnama and written statement (Ext.13) on 06.12.2001. Learned Counsel for the first party has been present on each and every date but none has been responding on behalf of second party to adduce evidence since last dozens of dates. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer